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# **SUCCESSION DUTIES**

**REFERENCE BOOK  
FOR  
DOMINION-PROVINCIAL CONFERENCE  
ON RECONSTRUCTION**







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# SUCCESSION DUTIES

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**REFERENCE BOOK  
FOR  
DOMINION-PROVINCIAL CONFERENCE  
ON RECONSTRUCTION**



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## FOREWORD

This reference book is intended to provide a descriptive, factual summary of Dominion and provincial succession duties levied upon property changing owners by reason of death as a convenient source of material for further consideration of this subject or relevant proposals. The material has been compiled under the direction of the Secretariat of the Cabinet Committee on Dominion-Provincial Relations.

The assistance of the Office of the High Commissioner for the Commonwealth of Australia in making available information regarding Australian succession duties is gratefully acknowledged.





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## PART I

### GENERAL REVIEW

#### 1. DOMINION SUCCESSION DUTY

##### HISTORY

Succession duties were first imposed by the Dominion government under the Succession Duty Act, Cap. 14, Statutes of 1940-41, Second Session, assented to June 14, 1941, applicable to estates of decedents dying on or after that date. This Act was amended by Cap. 25, Statutes of 1942, the amendments being made retroactive in effect to the date of the original legislation. Further minor amendments were made by Cap. 37, Statutes of 1944-45, effective from assent on August 15, 1944. In the Budget Speech delivered on April 29, 1941, in which the Minister of Finance introduced the original legislation, it was pointed out that this field of taxation had previously been used by the provinces, and not by the Dominion, though neither have exclusive rights to it. The Minister went on to say:

"The compelling need for revenue which induces us to enter this new field arises from the war, but I would not suggest that this new Dominion tax is a temporary war-time tax only".

Canada and the United States have entered into a Reciprocal Tax Convention for the avoidance of double taxation and the prevention of evasion of estate taxes and succession duties. The Convention, by its terms, is retroactive to June 14, 1941. Extracts from the Convention are set out in Part III of this study.

##### APPLICATION

The tax applies to all property of persons domiciled in Canada at the time of death, excepting real estate outside of Canada, and upon the succession of all property situated within Canada, in cases where the deceased died domiciled outside of Canada. The Act expressly provides that not only property owned at the time of death, but also certain other property passing at the time of death, transferred by the deceased in contemplation of death, or transferred by gift by the deceased within three years of death, etc., shall be included in the valuation of the estate. These provisions are designed to prevent evasion of the tax, and attempt to cover all means by which an owner may distribute an estate according to his wishes, and at the same time avoid succession duties and frequently maintain beneficial ownership until death.

The Act provides for two forms of duty, namely:—

- (a) Initial duty.
- (b) Additional duty.

The rate of initial duty is determined by the "aggregate net value" of the estate. Aggregate net value may be defined as the fair market value of all property, wherever situated, which belonged to the deceased, or is deemed to be included in the succession, less debts, encumbrances, and reasonable funeral expenses. The initial duty is, therefore, an estate tax.

The rate of additional duty is determined separately for each legacy or bequest and depends upon the relationship of the beneficiary to the deceased and upon the net value of the property passing to the beneficiary, so that this tax is a succession duty.

The tax is therefore, in the words of the Minister of Finance (Budget Speech, April 29, 1941) "a composite type of tax similar to that used by most of the provinces in this country".

For the purposes of determining additional duty beneficiaries are divided into four classes as follows:—

Class A: The widow or child of the deceased.

Under the Act, child is defined as a son or daughter of the deceased, under eighteen years of age at the date of death of the deceased; or any descendant of a son or daughter of the deceased, under eighteen years of age at the date of death of the deceased and dependent upon deceased for support; or any son or daughter or descendant of son or daughter of deceased, who was over eighteen years of age at date of death of deceased but dependent for reasons of mental or physical infirmity.

Son or daughter includes any person legally adopted while under the age of twelve years by deceased.

Class B: The grandfather, grandmother, father, mother, husband, son-in-law or daughter-in-law, or a child of the deceased who does not come under the Class A definition.

Class C: Lineal ancestors (except those included in Class B), brothers or sisters of deceased or a descendant of them, or aunts and uncles and any descendant of them.

Class D: Any persons of any degree of consanguinity to the deceased not included in the other classes, and strangers to the blood.

It should be noted that the above classification of beneficiaries is more restricted as to Class A than the majority of the provincial acts.

##### EXEMPTIONS AND RATES

No duty is payable on estates not exceeding \$5,000, or on bequests not exceeding \$1,000 to any one individual.

Widows are exempt up to \$20,000 plus \$5,000 for each dependent child, unless the child also benefits, in which case the exemption for such child is \$5,000 less the amount of the benefit.

A child is exempt to the extent of \$5,000, but in the case of a child having no surviving parent the exemption is \$15,000, in addition to the \$5,000 referred to above. If there is more than one such dependent orphan the \$15,000 exemption is apportioned among them.



The exemptions to widows and children are deducted from the dutiable value (the rate of duty being determined before deduction) and duty is payable on the excess only when the limit is passed. This is an important variation from the provincial acts, where, with the exception of British Columbia, a "starting point" type of exemption is used, the whole being taxable when the limit is exceeded.

Exemption is granted on gifts transferred before April 29, 1941, if the recipient received full possession at the time of transfer and the donor (the deceased) did not retain any beneficial interests or rights in respect of property transferred.

Property on which gift tax has been paid under the Income War Tax Act is exempt except to the extent by which the duty payable exceeds the gift tax paid.

Property passing by succession to a Canadian charitable organization, operated not for gain is exempt to an amount not exceeding 50 per cent of the aggregate net value of the estate, and property passing to the benefit of the Dominion of Canada or any Province or political subdivision thereof is exempt.

In addition provision is made for increased exemptions and reduced tax in case of those dying as a result of war service, while specific exemptions are granted on certain types of property (e.g. consular property) and war pensions.

The rate schedule was established with due regard to the rates in effect in the various provinces, and was probably to some extent influenced by the cumulative effect of the new Dominion, plus the provincial tax, in those provinces which had relatively high rate structures.

The rate of tax is determined by the size of the estate, the size of the amount which the individual receives, and by the relationship of the beneficiary to the deceased. Relatively more emphasis is laid upon the amount received by the individual than under the provincial acts. The initial rates dependent on aggregate net value start at one half of 1 per cent, applicable on estates in excess of \$25,000, and increase by totality until the maximum rate of 10 per cent is reached on estates exceeding \$5,000,000 aggregate net value. The additional rates dependent upon dutiable value, and determined by the size of the individual bequest and the relationship of the recipient to the deceased, start at 2 per cent on successions of a dutiable value exceeding \$5,000 to Class A beneficiaries, and 1 per cent, 2 per cent, and 2.5 per cent on successions in excess of \$1,000 to Class B, C and D beneficiaries respectively. The additional rates increase by totality until a maximum rate of 17 per cent is reached upon a dutiable value in excess of \$5,000,000, \$3,000,000, \$2,000,000 and \$1,500,000 for beneficiaries in Classes A, B, C and D respectively.

The progression in both initial and additional rates is quite gradual and a detailed table of rates of duty appears as the First Schedule of the Dominion Succession Duty Act.

Examples of the incidence of both Dominion and provincial duties on estates of various sizes, and upon different classes of beneficiary are presented in Part II of this study.

#### REVENUES

Table 12, based upon the statistics of succession duty assessments of dutiable estates, as prepared by the statistical section of the Taxation Division, Department

of National Revenue, presents details of succession duties assessed under the Dominion Succession Duty Act for the year ended March 31, 1944. The Table records succession duty assessments amounting to \$12,719,000 while the Dominion revenue from this source for the year ended March 31, 1944, as shown on Table 10 was approximately \$15,000,000. This difference will be represented in estates not assessed at the close of the fiscal year.

Estates which might be described as small and moderate in size, being those up to \$50,000, comprise approximately \$117 millions or 52 per cent of the total value of estates included in the report but only 20 per cent of the reported duties came from these estates. Of the total estate value of \$117 millions in this class, \$27 millions is non-dutiable and presumably a large part of this non-dutiable total is comprised of the exemptions allowed Class A beneficiaries.

#### ROYAL COMMISSION REPORT

By Order in Council P.C. 8679 dated November 13, 1944, a Royal Commission was appointed, its function in part being:

"To investigate and report upon the taxes imposed under laws in force in Canada, on income and successions or inheritances arising upon the death of a person owning a substantial proportion of the shares of a private corporation, or a closely held corporation which has accumulated an earned surplus, and to consider whether under any circumstances there should be an abatement of the tax liability, and, if so, under what circumstances and to what extent there should be such abatement".

The report of the Commission has been issued under date of March 29, 1945. The following is the Summary of Recommendations presented by the Commission in regard to the above terms of reference:<sup>1</sup>

#### SUMMARY OF RECOMMENDATIONS

1. That the companies to which these recommendations apply be those which, in general, come within the definition of a private company as provided in the Dominion Companies Act.
2. That capitalization or distribution of surpluses earned prior to the end of the 1939 fiscal year be permitted on payment of a special tax by the company, which will approximate the tax that would have been paid by the shareholders had the surplus been distributed year by year as earned.
3. That to accomplish this objective a graduated rate of tax be applied to the amount of the distribution or capitalization made or accruing to each shareholder—the minimum rate being 15 per cent on amounts up to \$25,000, and the maximum being 33 per cent on amounts in excess of \$400,000 to any one shareholder.
4. That permission to capitalize or distribute such surpluses be available for a period of two years from the date that the plan is made law.
5. That the refundable portion of excess profits tax be made available to apply in part payment of the special tax.

<sup>1</sup>A Memorandum of Reservations on certain matters was presented by Dr. D. A. MacGibbon, a member of the Commission.



6. That on the reorganization of a private company which involves a change in beneficial ownership, or on the winding up or discontinuance of business of any such company, the undistributed income which is deemed to be the payment of a dividend under the present law be reduced by an amount equal to 20 per cent of the income after tax earned in the 1940 and subsequent taxation years.

## 2. PROVINCIAL SUCCESSION DUTIES

### HISTORY

Death duties were first levied by New Brunswick, Ontario, Nova Scotia and Quebec in 1892, by Manitoba in 1893, by British Columbia and Prince Edward Island in 1894, and by the Northwest Territories in 1903. The latter statute was continued in force by Saskatchewan and Alberta when these provinces were formed in 1905. The original acts in all cases provided for a tax of the estate duty type and beneficiaries were usually classified as direct heirs, collaterals and strangers with differing rates for each class.

Under the first Ontario Act, the revenues were for the support of charitable institutions in the province; however, included in the extensive amendments made in 1905 was a provision that estate duty revenue should go to the general funds of the province. The Act of 1892 provided for an exemption to heirs of the direct line if the net value of the estate did not exceed \$100,000; when net value exceeded \$100,000 and did not exceed \$200,000 the rate was 2½ per cent, and when over \$200,000, 5 per cent. Collaterals and strangers were exempted only when the estate was under \$10,000; if the estate exceeded this amount the rates of tax were 5 per cent for collateral heirs and 10 per cent for strangers.

The original Acts in Nova Scotia, New Brunswick and Prince Edward Island were in the same general form as the Ontario Act, but with lower exemption levels and minor rate variation. In Nova Scotia the exemption was \$25,000 for Class A beneficiaries and \$5,000 for others and in New Brunswick \$50,000, \$10,000 and \$5,000 for Classes A, B and C respectively. The Prince Edward Island Act of 1894 appears to have been modelled upon the Nova Scotia statute but rates and exemptions were lower. A feature of the original New Brunswick Act was the provision that rates were doubled when the beneficiary was not a resident of the province. It is noteworthy that certain current provincial legislation makes special allowance for resident beneficiaries—e.g. Saskatchewan imposes additional rates on non-residents while the present Class A in Alberta includes only residents of the stated degree of affinity, an intermediate Class B appearing for persons of the same degree of relationship not resident in the province.

The Quebec law of 1892 provided for five classes of beneficiaries and granted exemption to direct heirs only, when the estate did not exceed \$10,000. Tax rates set were 1 per cent, 3 per cent, 6 per cent, 8 per cent and 10 per cent for the five classes of beneficiary.

In 1893 the Manitoba Act introduced the feature of progressive rates, which had previously been instituted to a minor extent only in case of direct heirs—e.g. the Ontario rate of 2½ per cent or 5 per cent referred to

above. Under the Manitoba law direct heirs were allowed an exemption on shares of dutiable value up to \$10,000 and were exempt when the total value of the estate did not exceed \$25,000. The \$10,000 exemption was reduced by subsequent amendments and finally disappeared. Other shares were exempt on small estates. The rate schedule provided rates rising from 1 per cent on estates under \$25,000 to 10 per cent on estates in excess of \$1,000,000, and applied to all classes of beneficiary, the higher exemption being the only discrimination in favour of direct heirs.

The first British Columbia statute was modelled on the Manitoba law, with progressive rates of from 1 per cent to 5 per cent and exemptions of \$25,000 to Class A beneficiaries and \$5,000 to others. The shares passing to direct heirs were taxed at one-half rates.

The 1903 law enacted in the Northwest Territory followed the usual model of Canadian death tax legislation and was continued in force by Saskatchewan and Alberta when these provinces were formed in 1905.

In 1905 Ontario added a tax based on the individual shares of the estate received by each beneficiary. The amount of this tax, which was set at progressive rates, and applied to direct and collateral beneficiaries, was governed by the size of the share, over a stated exemption, rather than by the size of the entire estate. The levies imposed by the Ontario Act, and by the Acts of the other provinces, up to this time, had been more in the nature of estate taxes than true succession duties, the rate to be applied to the benefit being determined by the size of the total estate, rather than by the size of the individual share. The new development introduced by Ontario was adopted by all other provinces except Prince Edward Island, and levies based upon the individual shares received by beneficiaries were added to the existing share-based rates. Manitoba subsequently dropped this form of levy, but it has been maintained, with frequent rate adjustments, in the other provinces, resulting in a composite type of tax which is partly an estate-based levy and partly determined by the size of the individual succession.

It is unnecessary to detail the numerous changes and amendments in the death tax legislation of the individual provinces. In general the changes have been designed to increase revenues, and to define more clearly property subject to tax and thereby prevent evasion and increase the efficiency of collection. Rates have been greatly increased, and are in all provinces progressive by totality with in the majority of provinces considerable refinement of the schedules. The increases from bracket to bracket usually are expressed in fractional percentages, the intention being to avoid sudden "jumps" in the schedules. Similarly, the exemption limits have been generally lowered, and the rates adjusted so as to provide for an equitable impact of taxation upon the different classes of beneficiary. Certain transfers of property such as transfers or gifts made a stated interval before death or held to have been made in contemplation of death, are detailed in the relative acts and the acts provide for the inclusion of these items in property passing at death. Monies payable under policies of life insurance are commonly taxable, though specific exemptions are allowed by some provinces. Amendments have provided for exemption of gifts or bequests of a charitable nature but such exemptions are commonly allowed only when the activities are carried on within the province. Other



amendments to existing legislation have been necessary to keep the enactments within the scope of provincial taxation power as set out in Section 92 of the British North America Act, namely that provincial taxation must be direct, and within the province. Changes and amendments of the latter sort have usually arisen as a result of decisions of the Courts.

Evidences of the effect of the changes referred to in the preceding paragraph will appear in the discussions of present rate schedules, application, exemptions, etc., in this study.

#### APPLICATION

Broadly speaking, succession duties in the various provinces are levied upon all the property of a deceased person which is situated within the province, regardless of the place of domicile of the deceased, and of whether the property passes to a resident or non-resident beneficiary, and, when the decedent was domiciled within the province, also upon all property, except real estate, situated without the province but passing to a resident beneficiary.

To be *intra vires*, provincial taxation legislation must, under Section 92(2) of the British North America Act be "Direct taxation within the province". In the opinion of the Courts, a direct tax must meet the definition laid down by John Stuart Mill in his "Principles of Political Economy", namely "A direct tax is one which is demanded from the very persons who it is intended or desired should pay it". Provincial succession duty legislation conforms with this definition by making it clear that the taxes are demanded from those who will ultimately bear them, that is, from the beneficiaries. It should be added, however, that amendments have been made to a number of provincial succession duty acts as a result of legal decisions where the courts have held that the tax imposed was exigible against other persons as, for example, the executors of the estate. In such event, the tax has been held to be indirect and hence *ultra vires* provincial authority. Important cases bearing upon this point have been "Cotton v. The King" (1914, A.C. 176), the decision in which resulted in amendments to the Quebec Succession Duties Act of 1906, and "Provincial Treasurer of Alberta v. Kerr", (1933, A.C. 710). The latter decision caused important revisions in the Alberta statute.

Insofar as taxation "within the province" is concerned, it has been held by the Courts that the subject matter of the tax must be within the province. In order, therefore, to encompass within the tax structure the property previously outlined, it has been necessary for the provinces to frame their statutes so that the tax is at times imposed upon the property and at times upon the transmission of the property within the province. In effect, the provinces have been able to tax property having its situs within the province by making the property itself the subject matter of the tax, while intangibles without the province are taxed upon transmission.

The definitions of property and property passing upon death, under the provincial succession duty acts have been made extremely comprehensive, with the twofold intention of increasing death duty revenue and preventing tax avoidance and evasion. It would be impossible to discuss in limited space the varied provi-

sions in the different acts regarding "property passing" and the following outline will present a general summary of property to which the several succession duty acts apply.

The most common form of property passing on death is the real and personal property of the decedent owned by him at the date of death and passing under will or upon intestacy. Succession duty is payable upon real and personal property included in the above and situated within the province, and generally upon intangible property having its situs outside the province but passing to a resident beneficiary. However the *rate of tax* for the estate-based levy is determined by the value of all the property passing even though part of the estate situated outside the province may not be taxable.

Monies payable under policies of insurance are included in the value of the estate, subject to stated exemptions in certain provinces which will be referred to later, and property passing also includes annuities, pensions, etc. to the extent that a benefit therefrom passes to any person.

Property owned jointly, except to the extent that the survivor(s) have contributed towards their interest in the property, and property in which the deceased had an interest, or of which he was competent to dispose by will or otherwise, and, broadly speaking, any continuing or transferable rights to or interest in estates, trusts, etc., are all included in the aggregation of an estate.

In addition, property passing on death includes a large group of items referred to under the Ontario Act as "Dispositions". The Ontario Legislation is probably the most comprehensive of all provincial acts in this regard and, generally speaking, provides that all gifts and transfers, unless made for full consideration, are included in property passing. Similar provisions appear in the Acts of the other provinces. Among the more important items included in the above category are deathbed gifts, gifts "inter vivos" and various kinds of trusts created during the lifetime of the decedent.

The property in respect of which death duties are levied is determined according to the general rules outlined above and upon valuation comprises the total value of the estate. Under all the provincial succession duty acts, certain deductions are allowed in determining what is variously known under the acts as aggregate value, aggregate net value, or net value of the estate. These deductions are practically the same in all provinces and comprise debts and encumbrances, reasonable funeral expenses and probate fees and expenses. The aggregate value so determined is the value for purposes of succession duty. Provision is made for the proration of the debts, etc., if only a part of the total estate is dutiable within the relative jurisdiction.

British Columbia provides for the deduction of the provincial Probate Duty in determining the net value of the property and brief mention of this tax should be made here. The tax is levied upon property within the province in respect of which letters probate or letters of administration are granted by any Court in the Province. Property passing to the wife or child is exempt and rates applying to other persons are as follows:

Property passing to father, mother, husband, brother, son-in-law or daughter-in-law—1 per cent.



Property passing to any persons other than previously mentioned classes—5 per cent.

As the impact of the British Columbia Probate Duty is relatively light, it has been ignored in the computation of British Columbia death taxes in the examples contained in this study.

#### EXEMPTIONS AND RATES

A summary of the more important exemptions granted by the various provinces, with the Dominion added for purposes of comparison, is presented as Table 1.

The information contained in Table 1 has been assembled so as to show the general exemption, if any, granted in each jurisdiction, this exemption being the amount below which no duty is levied—i.e., if the net value of the estate is not in excess of the figure set out in the general exemption column, then no duty is levied on bequests to any class of beneficiary. The “class” headings follow those adopted by the Dominion Act and it should be noted that the Dominion Class A is more restricted than under most of the provincial Acts (except Prince Edward Island and Nova Scotia), the most preferred groups in the majority of the provinces corresponding quite closely to the Dominion Classes A and B.

Six provinces, namely, New Brunswick, Quebec, Ontario, Manitoba, Saskatchewan and British Columbia have three classes of beneficiary, and have adopted generally comparable classifications as follows:

Class 1—Wife, child, husband, parent, son-in-law or daughter-in-law.

Class 2—Lineal ancestors or descendants not included in the above, brother or sister or their children or grandchildren, uncle or aunt.

Class 3—Others.

These classifications vary in minor degree in the provinces mentioned, thus Quebec and Ontario extend Class 1 to include grandparents and grandchildren, and Saskatchewan and British Columbia include grandchildren in the most preferred class. Manitoba, on the other hand restricts Class 1 by dropping son-in-law and daughter-in-law to the next category.

Prince Edward Island also adopts three classifications, but the preferred group is the most restricted of any province. A widow with dependent child or a dependent child under 21 years of age or infirm, comprise Class 1. A widow without dependent child, children not dependent, father, mother, brother, sister, grandchild, step-child, or son or daughter-in-law are Class 2 beneficiaries, while all others are Class 3.

Nova Scotia and Alberta have four classes, the Nova Scotia Class 1 being in effect a special category for widow with dependent child or a dependent child. Classes 2, 3, and 4 then follow the usual model outlined in respect of the first six provinces discussed previously. Alberta also follows the common classification by degree of consanguinity, Class 2 in Alberta being a special category for persons of the most preferred class, not resident in the province.

It should be noted that the general exemptions listed in Table 1 and the exemptions granted to beneficiaries of different class, with the exception of the Class A exemptions under the Dominion and British Columbia Acts, are of the type which might be known as “starting point” exemptions. Duty is payable upon the entire

estate or succession when the limit is passed. British Columbia and the Dominion differ in that the exemption in case of Class A beneficiaries is deducted and duty is payable upon the excess. The starting point type of exemption is perhaps more common to Canada than elsewhere, though the United Kingdom and New South Wales both use it; on the other hand the “deductible” exemption commonly appears in the legislation of the American States and in the United States (Federal), New Zealand and Australia (Federal) Acts.

No exemption is shown under the Class C heading for Prince Edward Island, the Class 2 beneficiaries in this province appearing on the table under Class B which is considered the most similar class. However the Prince Edward Island Class 2 includes brothers and sisters of the deceased and to this extent a \$5,000 exemption also applies under the Class C heading in Table 1.

Table 1 has dealt mainly with the generally comparable exemptions allowed to beneficiaries by all provinces. Brief consideration will now be given to certain other important exemptions and allowances in different provinces.

Bequests and donations for charitable, religious or educational purposes are commonly exempt from duty, in some provinces without limit, and in others up to stated amounts. A usual restriction placed upon this type of exemption is that the work for which the bequest is made must be carried on *within the province*. Gifts or bequests to the relative province or to certain provincial institutions, e.g., a provincial university, are also exempt.

Proceeds of life insurance policies payable to preferred beneficiaries are exempt for stated amounts in some provinces. The maximum allowance in British Columbia is \$25,000. Nova Scotia and Saskatchewan exempt amounts up to \$5,000, while in Manitoba an exemption of \$5,000 is extended to the widow or to a child under eighteen years of age, or to both widow and child. The amount is increased to \$10,000 if the deceased leaves surviving him a wife and more than one dependent child, or two or more dependent children.

Most provinces now provide for exemption of certain gifts “inter vivos” and similar dispositions; examples being the Saskatchewan exemption of gifts to near relatives made at least three years before death and not exceeding \$15,000, and the Ontario provisions exempting dispositions made thirty years before the death of the donor and absolute gifts to any member of the deceased’s family made more than twenty years before death.

The maritime and prairie provinces exempt life insurance monies earmarked for payment of succession duties except to the extent that the proceeds exceed the amount of duty. The usual requirement is that the policy be made expressly payable to the Provincial Treasurer of the province.

The rates in each province will now be considered. The minimum rate and maximum rate applicable to each class of beneficiary will be presented, together with the amount upon which each applies. This method is adopted because the rate schedules are quite long and the rates are progressive by totality and therefore are not readily summarized. In all cases the rates are those effective as of May 1945 and are the rates used in the examples in following sections of the study.



### Prince Edward Island

The current legislation is Cap. 59, Statutes of 1940, as amended.

The rate of duty depends upon:

1. The aggregate value of the property.
2. The relationship of the deceased to the beneficiary.

Beneficiaries are divided into the following classes:

Class 1—Wife with dependent child, or a dependent child.

Class 2—Father, mother, brother, sister, grandchild, daughter-in-law, son-in-law, husband, wife without dependent child, child not dependent or stepchild.

Class 3—Any other person.

#### RATES

—	Class 1	Class 2	Class 3
Minimum rate.....	% 1½	2½	10
Aggregate value.....	\$ 10,001	5,001	.....
Maximum rate.....	% 5	10	20
Aggregate value.....	\$1,000,000	1,000,000	1,000,000

The following proviso appears in respect of Class 3 beneficiaries. "Provided that in estates of which the aggregate value does not exceed twenty thousand dollars the rate of duty payable by nephews and nieces of the deceased shall be one-half the rate prescribed by sub-sections (a) and (b) respectively." To the above extent the Class 3 minimum rate is 5 per cent.

The Prince Edward Island rate schedule is noteworthy in that above \$1,000,000 the rate decreases; however it is probably safe to assume that the rate has, in fact, never been applied. Rate progression has not been carried to a point of refinement comparable with the other provinces.

### Nova Scotia

The current legislation is Cap. 18, Revised Statutes of 1923, as amended.

The rate of duty depends upon:

1. The aggregate value of the estate.
2. The relationship of the deceased to the beneficiary.
3. The amount passing to the individual beneficiary.

Beneficiaries are divided into the following classes:

Class 1—Wife with dependent child, or dependent child.

Class 2—Grandparents, parents, wife, child not dependent, grandchild, daughter-in-law or son-in-law, and religious or charitable institutions.

Class 3—Brother or sister, child or grandchild of brother or sister, brother or sister of father or mother of deceased or any child or grandchild of such brother or sister, lineal ancestors or descendants not previously mentioned.

Class 4—Any other person.

### RATES

#### "ESTATE-BASED" RATES

—	Class 1 <sup>(1)</sup>	Class 2	Class 3	Class 4
Minimum rate.....	% 1/10	½	5	10
Aggregate value.....	\$ 10,001	10,001	5,001	5,001
Maximum rate.....	%.....	14	22	36½
Aggregate value.....	\$.....	1,000,000	1,000,000	1,000,000

<sup>1</sup>Class 1 is a special category, and the rates apply only on the smaller estates. At \$75,000 the rates overtake the Class 2 rates which apply thereafter.

#### "SHARE-BASED" RATES

Minimum rate.....	% ½	½	1	.....
Value of share.....	\$ 25,001	25,001	5,001	.....
Maximum rate.....	%.....	15	16½	.....
Value of share.....	\$.....	3,000,000	3,000,000	.....

The stated maximums in the above table are not the absolute maximum, as the rate schedule provides for further increases in Class 2 and 3 rates but the progression is so gradual that it is in effect insignificant. Above \$1,000,000 the "estate-based" rates increase 1/100 of one per cent for each full \$250,000 above \$1,000,000. The "share-based" rates increase by 1/100 of one per cent for each full \$500,000 over \$3,000,000. In addition, a surtax amounting to 10 per cent of the tax payable is imposed by the Act. The progression is quite gradual, increases being by fractional percentages, within narrow brackets.

### New Brunswick

The current legislation is Cap. 12, Statutes of 1934, as amended.

The rate of duty depends upon:

1. The net value of the estate.
2. The relationship of the deceased to the beneficiary.
3. The amount passing to each individual beneficiary.

Beneficiaries are divided into the following classes:

Class 1—Father, mother, husband, wife, child, daughter-in-law or son-in-law.

Class 2—Any lineal ancestor or descendant except those mentioned above, brother, sister, or child or grandchild of brother or sister, brother or sister of father or mother of deceased or any child or grandchild of such brother or sister.

Class 3—Any other person.

RATES  
"ESTATE-BASED" RATES

—	Class 1	Class 2	Class 3
Minimum rate.....	% 1	1½	5
Net value.....	\$ 25,001	5,001	1,001
Maximum rate.....	% 15	20	35
Net value.....	\$1,000,000	900,000	1,500 000

"SHARE-BASED" RATES

Minimum rate.....	% 5/100	10/100	10/100
Value of share.....	\$ 25,001	5,001	1,001
Maximum rate.....	% 13	14	10
Value of share.....	\$4,000,000	2,900,000	1,300,000

The progression is gradual, increases being by fractional percentages within narrow brackets.

*Quebec*

The current legislation is Cap. 80, Revised Statutes of 1941, as amended.

The rate of duty depends upon

1. The net value of the estate.
2. The relationship of the deceased to the beneficiary.
3. The amount passing to each individual beneficiary.

Beneficiaries are divided into the following classes:

Class 1—Lineal ancestors and descendants, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson or stepdaughter.

Class 2—Brother, sister, descendant of brother or sister, brother or sister of parent or child of such brother or sister.

Class 3—Other persons.

RATES  
"ESTATE-BASED" RATES

—	Class 1	Class 2	Class 3
Minimum rate.....	% 1	4	10
Aggregate value.....	\$ 10,001	1,001	.....
Maximum rate.....	% 15	20	30
Aggregate value.....	\$1,000,000	1,000,000	1,000,000

"SHARE-BASED" RATES

Minimum rate.....	% 1	1	2
Value of share.....	\$ 10,001	1,001	.....
Maximum rate.....	% 10	10	5
Value of share.....	\$1,400,000	1,500,000	1,200,000

The progression is gradual, increases being by fractional percentages. Thousand dollar brackets are used throughout the schedule.

*Ontario*

The current legislation is Cap. 1, Statutes of 1939, as amended.

The rates of duty depend upon:

1. The aggregate value of the estate.
2. The relationship of the deceased to the beneficiary.
3. The amount passing to each individual beneficiary.

Beneficiaries are divided into the following classes:

Class 1—Grandfather, grandmother, father, mother, husband, wife, child, son-in-law, daughter-in-law.

Class 2—Lineal ancestors except those in Class 1, brother, sister, descendant of brother or sister, brother or sister of deceased's parents and descendants of such brother or sister.

Class 3—Other persons.

RATES  
"ESTATE-BASED" RATES

—	Class 1	Class 2	Class 3
Minimum rate.....	% 1	5	7½
Aggregate value.....	\$ 25,001	10,001	5,001
Maximum rate.....	% 14	17	35
Aggregate value.....	\$5,000,000	1,000,000	800,000

"SHARE-BASED" RATES

Minimum rate.....	% 1½	2½	.....
Value of share.....	\$ 50,001	10,001	.....
Maximum rate.....	% 15	13	.....
Value of share.....	\$3,000,000	3,000,000	.....



In addition surtaxes of 15 per cent, 20 per cent and 25 per cent of the amount of duty payable are imposed by the act upon Classes 1, 2, and 3 respectively.

The progression is gradual with increases expressed in fractional percentages.

#### Manitoba

The current legislation is Cap. 21, Revised Statutes of Manitoba, 1940, as amended.

The rates of duty depend upon:

1. The aggregate value of the estate.
2. The relationship of the deceased to the beneficiary.

Beneficiaries are divided into the following classes:

Class 1—Father, mother, husband, wife, child.

Class 2—Grandfather, grandmother, grandchild, son-in-law, daughter-in-law, brother or sister or child of brother or sister.

Class 3—Other persons.

#### RATES

—	Class 1	Class 2	Class 3
Minimum rate.....	% 3/10 <sup>1</sup>	2½	7
Net value.....	\$ 5,001 <sup>1</sup>	1,500	1,500
Maximum rate.....	% 15	17	25
Net value.....	\$ 1,000,000	1,000,000	1,000,000

In addition to these rates, a surtax of 15 per cent of the amount of the duty payable is imposed by the act.

The progression is gradual with increases by fractional percentages and thousand dollar brackets are used throughout the schedule.

There are no "additional" or "share-based" rates in Manitoba, that province and Prince Edward Island being the only provinces which have not adopted that feature.

#### Saskatchewan

The current legislation is Cap. 50, Revised Statutes of 1940.

The rates of duty depend upon:

1. The aggregate value of the property.
2. The relationship of the deceased to the beneficiary.
3. The amount passing to each individual beneficiary.
4. The domicile of the deceased and of the beneficiary.

Beneficiaries are divided into the following classes:

Class 1—Father, mother, husband, wife, child, son-in-law, daughter-in-law.

Class 2—Lineal ancestors other than father or mother, brother or sister, or descendant of brother or sister, brother or sister of father or mother or descendant of such brother or sister.

Class 3—Other persons.

<sup>1</sup> If the deceased and the beneficiary are resident in province the exemption is increased to \$25,000 and the initial rate of tax above \$25,000 is 1½ per cent.

#### RATES<sup>1</sup>

##### "ESTATE-BASED" RATES

—	Class 1	Class 2	Class 3
Minimum rate.....	% 1	3	2
Aggregate value.....	\$ 15,001	2,501	1,001
Maximum rate.....	% 16	21	37
Aggregate value.....	\$ 1,000,000	3,000,000	3,000,000

##### "SHARE-BASED" RATES

Minimum rate.....	% ½	½	.....
Value of share.....	\$ 25,001	5,001	.....
Maximum rate.....	% 10	9	.....
Value of share.....	\$ 3,000,000	1,000,000	.....

<sup>1</sup> If either beneficiary or descendant is domiciled outside the province additional rates are imposed, and these are doubled if both are non-domiciled. If aggregate value of estate passing to persons of Class 1, 2 and 3 respectively exceeds \$5,000, \$2,500, or \$1,000 the respective rates are 1 per cent, 1½ per cent or 2 per cent. In the preceding schedule resident rates are stated.

A surtax of 10 per cent of the amount of the duty payable is imposed by the Act.

The progression in the rates is gradual but is not refined to the same extent as in the other provinces (except Prince Edward Island). The smallest fraction used is one-half of one per cent as compared with hundredths of one per cent which are commonly used in the other provinces and as a result the brackets in the Saskatchewan schedule tend to be greater.

#### Alberta

The current legislation is Cap. 57, Revised Statutes of 1942, as amended.

The rates of duty depend upon:

1. The net value of the estate.
2. The relationship of the deceased to the beneficiary.
3. The amount passing to each individual beneficiary.
4. The domicile of the beneficiary.

Beneficiaries are divided into the following classes:

Class 1—Grandfather, grandmother, father, mother, husband, wife, child, son-in-law, daughter-in-law, being a resident or residents of the province.

Class 2—Persons mentioned in Class 1, but not resident in province.

Class 3—Any lineal ancestor not included in Class 1, brother, sister or lineal descendant of brother or sister, brother or sister of father or mother or any lineal descendant of such brother or sister.

Class 4—Any other person.



## RATES

## "ESTATE-BASED" RATES

—	Class 1	Class 2	Class 3	Class 4
Minimum rate.....%	1	$\frac{1}{2}$	1	2
Net value.....\$	15,001	5,001	1,001	1,001
Maximum rate.....%	13	14	19	36
Net value.....\$	2,000,000	2,000,000	2,000,000	2,000,000

## "SHARE-BASED" RATES

Minimum rate.....%	1	1	1	.....
Net value.....\$	50,001	50,001	25,001	.....
Maximum rate.....%	6	6	6 $\frac{1}{2}$	.....
Net value.....\$	1,000,001	1,000,001	1,000,001	.....

In addition to these rates a surtax of 20 per cent of the amount of the duty payable is imposed by the Act.

The progression is gradual with increases by fractional percentages and thousand dollar brackets are used throughout the "estate-based" rate schedule. The "share-based" rates progress by steps of one-half of one per cent and the brackets are correspondingly greater.

*British Columbia*

The current legislation is Cap. 270, Revised Statutes of 1936, as amended.

The rates of duty depend upon:

1. The net value of the estate.
2. The relationship of the deceased to the beneficiary.
3. The amount passing to each individual beneficiary.

Beneficiaries are divided into the following classes:

Class 1—Father, mother, husband, wife, child, grandchild, son-in-law, daughter-in-law.

Class 2—Grandfather, grandmother, uncle, aunt, cousin, brother, sister or any descendant of brother or sister.

Class 3—Any other person.

## RATES

## "ESTATE-BASED" RATES

—	Class 1	Class 2	Class 3
Minimum rate.....%	1	$\frac{1}{2}$	1
Net value.....\$	20,001	1,001	1,001
Maximum rate.....%	12	15	20
Net value.....\$	1,000,000	1,000,000	1,000,000

## "SHARE-BASED" RATES

Minimum rate.....%	1	$\frac{1}{2}$	$\frac{1}{2}$
Net value.....\$	50,001	25,001	25,001
Maximum rate.....%	5	7	7
Net value.....\$	1,000,001	1,000,001	1,000,001

In addition to these rates a surtax of 25 per cent of the amount of the duty payable is imposed by the Act.

The progression is gradual with increases by fractional percentages and thousand dollar brackets are used throughout the "estate-based" rate schedules. The "share-based" rates progress by steps of one-half of one per cent, or one per cent, and the brackets are correspondingly greater.

## REVENUES

By 1937 rates had reached substantially the present levels in the majority of provinces. Differences in the annual revenues in the years 1939, 1941 and 1943 in the various provinces are therefore interesting in that they, to a considerable extent, reflect normal fluctuations in revenue which are not attributable to rate changes or general economic conditions. If a few very large estates or in the smaller provinces even one large estate passes through the succession duty branch in a given year the collections may show a considerable increase over the year immediately preceding. As a result it is practically impossible to compare yearly succession duty revenues on a short-term basis. In general, however, revenues should, in the absence of rate changes, tend to show relatively smaller year to year variation, the larger the taxing authority concerned.

It will be noted from Table 10 that of the selected years, provincial succession duty revenues reached their highest point in 1937. The Ontario revenue for that year was considerably in excess of that for any other year tabulated. During this period Ontario was reopening certain estates in a search for possible evasion of taxation and some revenues undoubtedly arose as a result of this policy.

In Table 11, the succession duty revenues of the provinces for the years 1913, 1921 and 1939 are compared with the total tax revenue and the total revenue of the provinces in those years. The year 1939 has been selected for comparison with the two earlier periods as it seems preferable for purposes of this statement to use a year prior to the tax suspension agreement.

Succession duty revenues in all provinces show an increase in 1921 as compared with 1913 and a further increase in 1939, but if the revenue is expressed as a percentage of total provincial tax revenue decreases are apparent in all cases except in the 1921 as against 1939 comparison for Prince Edward Island and Nova Scotia. It is apparent, therefore, that although revisions to the rate structures and other factors have greatly increased the productivity of provincial death taxes, the increase has not been proportionately as great as the general increase in provincial tax revenues. Taxation revenue has become increasingly important in the provincial revenue picture, and the increased yield from income and corporation taxes and from such comparatively new sources as the gasoline tax has resulted in a reduction



in the proportion which succession duty revenue bears to total taxation revenue. However, a similar trend is not apparent if succession duty revenue is expressed as a percentage of total provincial revenue, the proportion in this case being more nearly constant for the years 1913, 1921 and 1939.

Death taxes contribute a much higher proportion of total provincial revenue in Quebec and Ontario than in the other provinces, the percentages for the year 1939 as shown in Table 11 being approximately 21 per cent in Quebec and 13 per cent in Ontario, while Manitoba with the highest proportion of the remaining provinces shows only 5.3 per cent.

#### INTERPROVINCIAL AND INTERNATIONAL AGREEMENTS<sup>1</sup>

Bearing in mind the property upon which death taxes are levied in Canada, and particularly the scope of provincial succession duties as outlined previously in this section in the sub-section dealing with the incidence of the taxes, it can be seen that discriminatory double or multiple taxation may arise in Canada in this taxation field. It may happen that personal property outside the province, belonging to a decedent domiciled in province "A" and passing to a resident beneficiary, is taxed by province "A" and also by the jurisdiction (another province or foreign) in which the property is situated. In effect the one tax is levied upon the transmission of the property and the other upon the property itself. A similar duplication of taxation may arise between the Dominion and a foreign jurisdiction. The rate of tax in such cases is based upon the value of the decedent's entire estate. This form of double taxation is discriminatory in that in the case of two estates of equal size it may affect one seriously and the other not at all, being dependent upon what might be called "accidents" of domicile and situs. Selected examples of the effect of double taxation are presented in Section 4 of Part I of this study while certain agreements which were designed to reduce or eliminate the hardship will be considered in the following paragraphs:

In general the Canadian succession duties acts provide that reciprocal agreements may be entered into with other jurisdictions, such agreements when consummated allowing certain duties paid in one province to be offset against those levied in another in respect of the same property. The usual form of such agreements is for the province of domicile to allow the tax paid in the jurisdiction of situs as an offset against the tax levied by the province of domicile against the "transmission". Section 7 of The Ontario Succession Duty Act, 1939 may be taken as illustrative of legislative provisions of the above type:

"The Lieutenant-Governor in Council may provide that where estate, legacy or succession duty is paid in any jurisdiction other than Ontario on property in respect of which there is a transmission, with respect of which duty is levied, an allowance shall be made on account of the payment of such duty, provided that this section shall apply only to such other jurisdiction as makes a similar allowance with respect to the Province of Ontario".

The Ontario act of 1905 appears to have been the first Canadian legislation to provide for reciprocity and similar legislation was adopted by other provinces.

<sup>1</sup> The historical material in this section is largely drawn from "Succession Duties or Death Taxes", a study prepared by W. H. Wynne, October, 1938.

During the next three decades a considerable number of agreements were negotiated between provinces and also between various provinces and foreign jurisdictions. Ontario advanced furthest in this field and in 1934 this province had agreements on a basis of reciprocity or of immunity from tax with British Columbia, Nova Scotia, Alberta, Prince Edward Island and New Brunswick, as well as with Great Britain and with twenty-six American states, the District of Columbia and the territory of Hawaii. During 1934, however, Ontario abrogated all the agreements with American jurisdictions.

The high point in the development of interprovincial agreements was reached in 1935. In addition to the agreements between Ontario and other provinces mentioned in the preceding paragraph, Alberta and British Columbia had exchanged concessions and both these provinces had agreements with New Brunswick. Manitoba, Saskatchewan and Quebec did not have reciprocity with any province.

This development in the field of reciprocity ended in 1937 when Alberta cancelled its agreements with other provinces, and also abolished a credit previously allowed for duties paid in Great Britain. Ontario and British Columbia thereupon did away with their concessions to Alberta. Ontario at the same time (June 1, 1937) cancelled its agreements with other provinces. The reciprocal agreement between British Columbia and New Brunswick, concessions granted by most of the provinces for death taxes paid in Great Britain, and a few isolated agreements between various provinces and British West Indian colonies were all that remained. By Orders-in-Council dated April 20, 1943, Great Britain cancelled its agreements with Ontario and Manitoba, the former as of September 22, 1939 and the latter as of March 6, 1943.

Signs of a revival of reciprocal agreements have appeared during 1945. Ontario and Quebec have negotiated an agreement, and Ontario has also extended concessions to Nova Scotia upon a reciprocal basis. The Orders-in-Council issued by Ontario covering these agreements are set forth in Part III.

It should be noted that Nova Scotia grants the right of offset in respect of duty paid elsewhere on property passing on death and brought or sent into Nova Scotia. The duty paid elsewhere may be offset against the Nova Scotia duty to the extent that duty is payable upon the same property in Nova Scotia. If the Nova Scotia duty levied is the greater amount, the excess is payable in that province.

Reference has been made in the first section of this study to the reciprocal agreement between the Dominion of Canada and the United States of America.

### 3. DUTIES PAYABLE ON SELECTED ESTATES

Illustrations of the impact of Dominion and Provincial succession duty taxation upon estates of various size, and of the tax payable upon these estates by representatives of the several classes of beneficiary, appear in Part II. There are innumerable possible distributions which might be applied to any estate, and therefore it has been necessary to adopt some basic assumptions for the illustrative tables. It is assumed that the entire estate is in all cases situated in the province, that it passes to one beneficiary, that the beneficiary is resident in the province and that the amount of the estate is the amount passing—i.e., that no debts



or encumbrances are outstanding. This method has disadvantages, a principal one being that the amount levied against an estate passing to one beneficiary, in a jurisdiction having both an "estate-based" tax and a "share-based" tax, will be greater than if the estate were distributed among several beneficiaries in the same class. By presuming that the entire amount passes to one person, the maximum tax which may be levied against an estate of the selected size in that classification is stated. This point applies to the Dominion tax and to that of all provinces except Prince Edward Island and Manitoba, the two provinces which do not have "share-based" levies. Further consideration will be given to this point and also to the question of double taxation when the estate is not wholly situated within the province later in this section after consideration of the following Tables:

Table 2—Entire estate passing to Widow (without dependent children) resident in province.

Table 3—Entire estate passing to Child (over eighteen years of age) resident in province.

Table 4—Entire estate passing to Nephew resident in province.

Table 5—Entire estate passing to Stranger to the blood resident in province.

The classifications of beneficiary adopted for Tables 2 to 5 inclusive follow the Dominion Act and the related provincial classification is then adapted to the Dominion classification. The amounts of provincial duty include the surtaxes imposed by certain provinces, namely:

Nova Scotia—10 per cent of duty payable.

Ontario—15, 20, and 25 per cent of duty payable on Classes 1 (Dominion A and B) 2 and 3 respectively.

Manitoba—15 per cent of duty payable.

Saskatchewan—10 per cent of duty payable on estates exceeding \$20,000.

Alberta—20 per cent of duty payable.

British Columbia—25 per cent of duty payable.

The percentage ratios of combined Dominion and provincial succession duties to the amount of the estates, shown in the illustrative tables, exhibit the considerable variance in the rates of tax imposed by the different provinces. Dominion rates are the same in all provinces and the estates in each selected bracket are assumed to be identical as between provinces, so that any variation between provinces in total amount levied on these comparable estates is due to differences in the provincial rate structures.

Reference was made in the opening paragraphs of this section to the fact that the total duty levied against an estate of given size may be less if several beneficiaries of the same class share in the estate than if the whole passes to one beneficiary of that class. In the following examples numbered 1 to 3, it will be presumed that estates are distributed to more than one beneficiary, and the duties payable under the stated conditions will be compared with those on an estate of similar size as set forth in Tables 2 to 5.

#### Example 1

An estate of \$100,000 is left by will of the decedent as follows:

\$50,000 to widow (without dependent children).

\$25,000 to each of two sons (both over eighteen years of age).

The decedent was domiciled in the province, beneficiaries are domiciled therein and the entire estate is situated in the province. The total duty which would be payable in each province and the Dominion duty appear in the following schedule, and the duty payable under conditions presumed in Table 2 appears for purposes of comparison.

Taxing Authority	Duty payable on estate described in Example 1	Duty payable on \$100,000 estate in Table 2
Prince Edward Island .....	\$10,000	\$10,000
Nova Scotia .....	6,050	7,700
New Brunswick .....	6,750	9,000
Quebec .....	7,000	8,000
Ontario .....	5,750	8,625
Manitoba .....	4,600	4,600
Saskatchewan .....	4,125	5,500
Alberta .....	6,000	7,800
British Columbia .....	2,000	3,000
Dominion of Canada .....	4,445	5,880 <sup>1</sup>

<sup>1</sup>This is amount payable on \$100,000 estate all passing to widow. As children of deceased over eighteen years of age are in a less preferred class than the widow the Dominion of Canada duties above are not strictly comparable. The duty payable on an estate of \$100,000 all passing to one child over eighteen years of age would be \$8350—see Table 3.

#### Example 2

An estate of \$100,000 is left by will of the decedent as follows:

\$50,000 to nephew of decedent.

\$25,000 to each of two nieces of decedent.

The decedent was domiciled in the province, beneficiaries are domiciled therein and the entire estate is situated in the province. The total duty which would be payable in each province, and the Dominion duty appear in the following schedule, and the duty payable under conditions presumed in Table 4 appears for purposes of comparison.

Taxing Authority	Duty payable on estate described in Example 2	Duty payable on \$100,000 estate in Table 4
Prince Edward Island .....	\$20,000	\$20,000
Nova Scotia .....	16,775	18,150
New Brunswick .....	14,875	16,500
Quebec .....	13,500	16,000
Ontario .....	17,730	18,240
Manitoba .....	13,800	13,800
Saskatchewan .....	12,925	14,300
Alberta .....	13,800	15,600
British Columbia .....	10,313	11,875
Dominion of Canada .....	6,600	9,350

#### Example 3

An estate of \$100,000 is left by will of the decedent as follows:

Legacies of \$50,000, \$25,000 and \$25,000 to strangers to the blood.

The decedent was domiciled in the province, beneficiaries are domiciled therein and the entire estate is situated in the province. The total duty which would be payable in each province, and the Dominion duty

appear in the following schedule, and the duty payable under conditions presumed in Table 5 appears for purposes of comparison.

Taxing Authority	Duty payable on estate described in Example 3	Duty payable on \$100,000 estate in Table 5
Prince Edward Island .....	\$20,000	\$20,000
Nova Scotia .....	20,350	20,350
New Brunswick .....	22,875	24,500
Quebec .....	22,000	22,000
Ontario .....	21,875	21,875
Manitoba .....	16,100	16,100
Saskatchewan .....	15,950	15,950
Alberta .....	20,400	20,400
British Columbia .....	16,563	18,125
Dominion of Canada .....	7,350	10,350

The schedules accompanying Examples 1, 2 and 3 exhibit the effect of a distribution of the estate among several beneficiaries of the same class. In jurisdictions imposing both a tax based on the aggregate value of the estate and one based upon the individual shares, the total amount levied is decreased when the estate passes to more than one beneficiary of the given class. In Examples 1 and 2 a decrease occurs in all provinces except Prince Edward Island and Manitoba; these two provinces do not impose a "share-based" tax and the amount of duty is therefore unchanged. In Example 3 only New Brunswick and British Columbia show a decrease from the amounts shown on Table 5. These provinces and Quebec are the only provinces which impose a "share-based" duty upon the most remote class of beneficiary. In Quebec the additional rate is a "flat" two per cent on amounts up to \$100,000 and the amounts of duty in the example are therefore the same. The Dominion of Canada tax is reduced in all examples, and the decrease is in general proportionately greater than in the provinces. The Dominion Act imposes a "share-based" tax upon all classes of beneficiary and, as compared with the provinces, the Dominion places more importance upon the rates based on individual shares.

It follows that if an estate is so situated that duty is levied upon it by only one province and the Dominion, then the rates applicable when the entire estate passes to one beneficiary of the most remote class are the maximum rates which will be levied upon it.

#### Example 4

This example deals with duties levied upon an estate passing to beneficiaries of more than one class. The statistics of succession duty assessments of dutiable estates as prepared by the statistical section of the Taxation Division, Department of National Revenue for the years ending March 31, 1943, and 1944, show that of the total dutiable successions reviewed by the Division 70 per cent to 75 per cent in dollar value pass to beneficiaries in Classes A or B and approximately 20 per cent to Class C, the remainder going to class D and charities. These percentages do not necessarily have any relationship to the distribution of any individual estate; however, they suggest an arbitrary distribution which has been adopted for the following example.

An estate of \$100,000 is left by will of the decedent as follows:

\$70,000 to widow (without dependent children)

\$20,000 to nephew of decedent.

\$10,000 to a stranger to the blood.

The decedent was domiciled in the province, beneficiaries are domiciled therein and the entire estate is situated in the province. The amount of duty payable in each province, and the Dominion duty payable, in respect of each succession, together with the rate of tax expressed as a percentage of tax to succession are presented in the following schedule:

Taxing Authority	Widow		Nephew		Stranger	
	\$	%	\$	%	\$	%
Prince Edward Island.	7,000	10.0	4,000	20.0	2,000	20.0
Nova Scotia.....	4,928	7.0	3,245	16.2	2,035	20.4
New Brunswick.....	5,670	8.1	2,800	14.0	2,100	21.0
Quebec.....	5,390	7.7	2,560	12.8	2,200	22.0
Ontario.....	5,555	7.9	3,504	17.5	2,188	21.9
Manitoba.....	3,220	4.6	2,760	13.8	1,610	16.1
Saskatchewan.....	3,465	5.0	2,530	12.7	1,595	16.0
Alberta.....	5,040	7.2	2,640	13.2	2,040	20.4
British Columbia.....	1,875	2.7	2,000	10.0	1,625	16.3
Dominion of Canada..	3,150	4.5	1,150	5.8	585	5.9

In the above example the rate of tax in every province increases substantially as the class of beneficiary becomes more remote, while the increase is much less marked in the Dominion rates. In the Budget Speech of April 29, 1941, the Minister of Finance, in introducing the Dominion succession duty legislation, said: "The rate of tax will be determined mainly by the size of the amount which the individual receives, but also by the size of the estate itself, and the relationship of the beneficiary to the deceased. —In determining the rate, we are laying more emphasis upon the size of the amount received than do the provinces,——". The effect of this emphasis upon the individual benefit under the Dominion Act is clearly shown in Example 4, where the widow receives the largest share and the effective rate on this share is proportionately higher as compared with the rate charged to the nephew than are the corresponding rates in the provinces.

#### 4. SELECTED EXAMPLES OF DOUBLE TAXATION

Double taxation may be defined as taxation of the same person or thing twice by different jurisdictions or even by the same jurisdiction. Thus the taxation of estates by a Canadian province and by the Dominion is a form of double taxation. There is nothing basically unfair in taxation of this kind, so long as it applies equally to all similarly situated taxpayers.

Unfortunately the form of the death tax legislation in the various provinces has resulted in another sort of double or multiple taxation, which is discriminatory in that some taxpayers in a class are taxed once while others are taxed more than once. This situation arises when the domicile of the decedent and the situs of the property do not coincide and as a result the estate, or



portions of it, are subjected to taxation by the two jurisdictions; one imposing duty upon the transmission of the succession(s) and the other upon the property itself. Reference has been made elsewhere to the dual character of Canadian succession duty legislation which in general imposes a tax which is a composite of an estate tax and a succession duty, while the development of the provincial legislation with its resultant problem of double taxation has been outlined in Section 2 of Part I in the subsection dealing with interprovincial and international agreements. Some examples of this discriminatory form of double taxation are now presented. In the examples the Dominion duty will be ignored, except to state the amount which would be levied, as the amount of the duty does not vary as a result of provincial domicile or situs.

#### *Double Taxation—Example 1*

A decedent domiciled in Alberta leaves an estate of \$100,000 to his widow, who is also domiciled in Alberta. Included in the estate is intangible property consisting of shares in Ontario corporations. These corporations have their head office and only transfer agency in Toronto. This portion of the estate is valued at \$70,000.

In the above case Alberta succession duty would be payable upon the whole estate. The duty upon an estate of \$100,000 passing to a beneficiary of Class 1 would be at a rate of 5 per cent plus an additional levy of  $1\frac{1}{2}$  per cent or a total rate of  $6\frac{1}{2}$  per cent. The duty therefore would be  $6\frac{1}{2}$  per cent of \$100,000, or \$6,500, to which would be added a surtax of 20 per cent. The total Alberta duty would be \$7,800.

Ontario would also levy succession duty upon this estate, in respect of the intangible property situated in the province. The rate of duty would be based upon the aggregate value of the estate, namely, \$100,000. This rate would be 5 per cent plus an additional levy of  $2\frac{1}{2}$  per cent or a total rate of  $7\frac{1}{2}$  per cent. The duty therefore would be  $7\frac{1}{2}$  per cent of \$70,000 (the value of the property situated in Ontario) or \$5,250, to which would be added a surtax of 15 per cent. The total Ontario duty would be \$6,038.

The total provincial succession duties levied upon the estate would be \$7,800 plus \$6,038, a total of \$13,838. If the entire estate were taxable in only one of the two provinces the duty would be \$7,800 or \$8,625 in Alberta or Ontario respectively. In all cases an amount of \$5,880 would be levied under the Dominion Act.

#### *Double Taxation—Example 2*

Circumstances are as in the first example except that the \$70,000 intangible property is composed of shares as follows:

Ontario "situs"	—\$25,000
Quebec "situs"	—\$25,000
Manitoba "situs"	—\$20,000

In this case the Alberta Tax would be \$7,800 as in the previous example.

Ontario duty would be levied at the same rate as in the first example, but the rate would be applied to the amount of \$25,000. The duty would be  $7\frac{1}{2}$  per cent of \$25,000, or \$1,875, plus a 15 per cent surtax, a total duty of \$2,156.

Quebec would levy duty upon the amount of \$25,000 in respect of the intangible property situated in that province. The rate of duty would be based upon the aggregate value of the estate, namely, \$100,000. This rate is 6 per cent plus an additional rate of 2 per cent and the duty would therefore be 8 per cent of \$25,000 or \$2,000.

Manitoba duty at a rate of 4 per cent, the rate applicable to an estate \$100,000 passing to a preferred beneficiary, would be levied upon \$20,000. The amount payable would be \$800 plus a surtax of 15 per cent, a total of \$920.

In this example the total provincial duties would be \$12,876, which is less than in the first example due to variation in the rates in different provinces, but still very substantially in excess of the amount which would be levied in any one province only on an entire estate of this size. As in the previous example the Dominion duty would amount to \$5,880.

The preceding examples are sufficient to illustrate the possible severity of the impact of double taxation upon certain estates. An estate of identical size but with details of domicile and situs of assets different might very probably be taxable in only one of the jurisdictions used in the examples.

It should be noted that the examples used are for illustrative purposes only and that double taxation is, with few exceptions, possible to some degree in all Canadian jurisdictions and may also involve a Canadian taxing authority and a foreign state. Important exceptions to be noted however are reciprocal arrangements recently concluded between Ontario and Quebec and Ontario and Nova Scotia and similar agreements between New Brunswick and British Columbia and New Brunswick and Prince Edward Island. The first mentioned agreement is particularly important in that a large proportion of Canadian corporations are located in one or the other of these provinces. The existence of the Reciprocal Tax Convention between the Dominion of Canada and the United States of America, previously referred to in Section 1, should also be mentioned here.

The examples have probably exaggerated the general impact of double taxation, in that shares of capital stock, which are probably the estate asset most liable to this form of taxation, form a large part of the total assets in the examples. Nor are shares (and other personal property) necessarily subject to double taxation as only in certain cases is there a conflict of domicile and situs. However, as indicative of the fact that the problem may in certain cases be a serious one, it should be added that the statistics on succession duty assessments of dutiable estates as prepared by the statistical section of the Taxation Division, Department of National Revenue, for the fiscal years ended March 31, 1943, and 1944, show that shares comprised 16.1 per cent and 21.4 per cent respectively of the total assets in the estates assessed.

### 5. SUCCESSION DUTIES IN FOREIGN COUNTRIES

In this section the amount of death taxes payable on estates of representative amount in Australia, the United States of America and the United Kingdom will be compared with those payable on similar estates in selected Canadian provinces.



Australian succession duties are similar to Canadian in that the taxes are imposed by the federal government and also by each state. The Australian legislation in general imposes taxes which are of the estate rather than succession duty type, the rates being based on the whole value of the estate, with concessions granted preferred beneficiaries mainly through exemption limits. Under the Australian federal act the exemptions are of the "deduction" type similar to the exemptions granted Class A beneficiaries under our Dominion Act, rather than the "starting point" exemption which is more common to Canadian legislation. The exemptions allowed under this Australian act are also interesting in that provision is made for a decrease in the exemption as the size of the estate increases, the exemption finally being completely absorbed. The Australian "Estate Duty Assessment Act" allows death taxes paid under any state act as a deduction in determining the estate value. The definition of "debts" which may be deducted is as follows:—

"Debts include probate and succession duties payable under any State Act, but does not include voluntary debts".<sup>1</sup>

The Australian federal tax is an estate tax and after the exemptions applying to preferred beneficiaries are absorbed, the rates (on larger estates) are the same on an estate of equal size passing to any class of beneficiary. As a result of this, and of the allowance of state death taxes as a deduction from estate value, it follows that in considering the combined federal plus state taxes, the amount of federal tax may on the larger estates be less on an estate passing to a remote beneficiary than on a similar estate passing to a near relative. This point arises if the state levy is materially higher on different classes of beneficiary. Thus it will be noted in the following tables which present combined Australian federal and New South Wales taxes on selected estates, that the New South Wales tax becomes greater as the beneficiary becomes more remote. However, as a result of the deduction of this New South Wales tax from the estate value before computation of the federal tax, the federal tax on estates in excess of \$50,000 decreases as the relationship of the beneficiary to deceased becomes more remote. The combined tax in the examples, however, is always higher on the less preferred beneficiary.

The Australian federal tax rates used in the examples are those imposed by the "Estate Duty Act" as amended, the rates being those in effect in 1944. The New South Wales rates are those imposed by the "Stamp Duties Assessment Act 1939", as contained in the booklet entitled "Rates of Taxation" 1943 Edition, published by the Taxpayers Association of New South Wales (Inc.).

In the United States, death taxes are levied by the federal government and also by the individual states. The federal law imposes an estate tax, with relatively high exemption limits and rates which are progressive by bracket. This is a noteworthy variation from the Canadian acts, under which the progression is by totality. Another important difference from the Dominion Succession Duty Act is that under the American federal statute, inheritance taxes paid in the various states are allowed, within specified limits, as a deduction from the federal tax. The rates used in the examples are those imposed under Revenue Code Sections 810 and 935 and are the 1944 rates. The State of New York rates are also the present (1944) rates.

Death taxes in the United Kingdom are levied by the central government only. Both estate and succession duties are levied, the estate duty rates being much more severe and the greater part of inheritance tax revenue coming from this source. United Kingdom exemptions are very low, the exemption from estate duties being estates under £100. Estate duties paid are allowed as a deduction in calculating succession duty. The rates used in the examples are the current rates introduced by the 1940 Budget—F. (No. 2) A. 1940.

In comparing Canadian succession duties with those of foreign countries it has been necessary to select certain provinces or states whose taxes combined with the federal duty will present a general picture of the impact of these taxes. In the following table, the Canadian provinces of Quebec, Ontario and British Columbia have been selected, the first two because a large proportion of Canadian succession duty revenue is collected by those two provinces, and British Columbia largely because rates there tend to be lower than in the other provinces, particularly upon estates of medium size. For Australia and the United States, the states of New South Wales and New York have been selected, these being among the larger and more populous states in the respective countries.

The rate schedules have been converted to terms of Canadian dollars as follows:—

Australia—at \$3.50 to the £.

United Kingdom—at \$4.45 to the £.

United States—dollar for dollar.

In all the examples it is presumed that the beneficiary is resident in the province or state and that the entire estate passes to the one beneficiary.

The amount of estate is the aggregate net value, i.e., after deduction of debts, etc.

Illustrative tables as follows are presented in Part II:  
Table 6—Estate all passing to Widow, without dependent children.

Table 7—Estate all passing to non-dependent Child.

Table 8—Estate all passing to Nephew.

Table 9—Estate all passing to Stranger-to-the-blood.

The tables disclose the fact that greater emphasis is placed upon the relationship of the beneficiary to the decedent in Canada than in the selected foreign jurisdictions. As compared with Australia (plus New South Wales) and the United Kingdom, the Dominion, Ontario, Quebec and British Columbia all grant a much more liberal exemption limit on estates passing to the most preferred class of beneficiary, and in the case of Australia as compared with these Canadian provinces, the effective Canadian rates applying to Class A beneficiaries do not equal the Australian rates until a very high bracket is reached. However, the Canadian rates increase considerably and the exemption limits drop as the beneficiary becomes more remote until in the stranger class the British Columbia and Quebec rates are roughly comparable to the Australian and British on small estates and in all these provinces are greater on a \$10,000 estate. The United States federal plus New York are the lowest applying to any class or bracket appearing in the tables, with the exception of the \$5,000 Dominion plus Ontario bracket in the stranger class, which is exempt.

In connection with the higher exemptions granted by the Dominion and the Canadian provinces, particularly to preferred beneficiaries, in comparison with the British

<sup>1</sup> Extract from Section 3, the Estate Duty Assessment Act.



tax, it is noteworthy that after the exemption limits are passed the combined Canadian rates quite rapidly approach and then exceed the British rates. The Minister of Finance in the Budget Speech of April 29, 1941, made the following comments in this regard:

"The general level of the rates I am proposing is roughly comparable with the level of the provincial taxes, but probably somewhat lighter than the rates in most provinces. The combination of these new dominion rates and the provincial rates, should result in a total tax of about the same general magnitude as the British death duties, but with considerable differences in detail due to the different and complex natures of the taxes. The total Canadian rates would be somewhat higher than the British rates on others than close relatives, while they will tend to be lower where an estate is divided among a number of members of the deceased's own family."

The final sentence in the above quotation brings out a point which has also been dealt with in a previous section of this study, namely, that by presuming the entire estate to pass to one beneficiary only we state the highest rate applicable to an estate of the selected size passing in that class. This point is particularly important when Canadian combined rates are compared with British rates as the Dominion Act puts particular emphasis on the size of the succession while in general the bulk of the British tax is the estate tax. Canadian rates in the examples which are considerably higher than British on large estates, would be reduced (i.e., as a percentage of total duty paid to total estate) if, as usually happens, the estate is divided among several beneficiaries. Such a division should affect the Canadian effective rate more than the British on large estates and in general tend to bring the rates more closely together, particularly as regards the more remote beneficiaries.

# PART II

## TABLES

TABLE 1

### SUCCESSION DUTIES

SUMMARY OF EXEMPTIONS ALLOWED BY VARIOUS TAXING AUTHORITIES IN CANADA—ON BASIS OF  
DOMINION SUCCESSION DUTY ACT CLASSIFICATION

Taxing Authority	General Exemption	Class A	Class B	Class C	Class D
Dominion of Canada	Aggregate value not in excess of \$5,000	\$20,000 plus \$5,000 for each dependent child (this reduced by amount of any benefit to child). \$ 5,000 to dependent child \$20,000 to dependent child without surviving parent.	No duty on individual bequests not exceeding \$1,000	No duty on individual bequests not exceeding \$1,000	No duty on individual bequests not exceeding \$1,000
Prince Edward Island.	No general exemption.	"Starting point" exemption—if aggregate value not in excess of \$10,000.	"Starting point" exemption—if aggregate value not in excess of \$5,000.	No exemption.	No exemption.
Nova Scotia.	Aggregate value not in excess of \$5,000.	"Starting point" exemption—if aggregate value not in excess of \$10,000. Additional rates—bequests not in excess of \$25,000. Individual bequests not exceeding \$300 exempt.	"Starting point" exemption—if aggregate value not in excess of \$10,000. Additional rates—bequests not in excess of \$25,000. Individual bequests not exceeding \$300 exempt.	Individual bequests not exceeding \$300 exempt. Additional rates—bequests not in excess of \$5,000.	Individual bequests not exceeding \$300 exempt.
New Brunswick.	Aggregate value not in excess of \$1,000.	"Starting point" exemption—if aggregate value not in excess of \$25,000. Individual bequests not exceeding \$200.	Same as Class A.	"Starting point" exemption—if aggregate value not in excess of \$5,000. Individual bequests not exceeding \$200.	Individual bequests not exceeding \$200.
Quebec.	No general exemption.	"Starting point" exemption—if aggregate value not in excess of \$10,000 plus \$1,000 for each surviving child or surviving descendant of child.	Same as Class A.	"Starting point" exemption—if aggregate value not in excess of \$1,000.	Bequests not exceeding \$1,000 to employee of at least five years standing.
Ontario.	Aggregate value not in excess of \$5,000.	"Starting point" exemption—if aggregate value not in excess of \$25,000. Additional rates—bequests not in excess of \$50,000. Individual bequests not in excess of \$500 exempt.	Same as Class A.	"Starting point" exemption—if aggregate value not in excess of \$10,000. Individual bequests not in excess of \$500 exempt.	Individual bequests not exceeding \$500. Bequests not exceeding \$1,000 to employee of at least five years standing.
Manitoba.	Aggregate value not in excess of \$1,500.	"Starting point" exemption—if aggregate value not in excess of \$5,000, increased to \$25,000 when beneficiary resident in province. Individual bequests not in excess of \$300 exempt.	Same as Class A.	Individual bequests not in excess of \$300.	Individual bequests not in excess of \$300.



TABLE 1

SUCCESSION DUTIES—*Conc.*

SUMMARY OF EXEMPTIONS ALLOWED BY VARIOUS TAXING AUTHORITIES IN CANADA—ON BASIS OF  
DOMINION SUCCESSION DUTY ACT CLASSIFICATION

Taxing Authority	General Exemption	Class A	Class B	Class C	Class D
Saskatchewan.	Aggregate value not in excess of \$1,000.	"Starting point" exemption—if aggregate value not in excess of \$15,000. Additional rates—bequests not in excess of \$25,000. Individual bequests not in excess of \$300.	Same as Class A.	"Starting point" exemption—if aggregate value not in excess of \$2,500. Additional rates—bequests not in excess of \$5,000. Individual bequests not in excess of \$300.	Individual bequests not in excess of \$300.
Alberta.	Aggregate value not in excess of \$1,000.	"Starting point" exemption—if aggregate value not in excess of \$15,000. Additional rates — bequests not in excess of \$50,000. In case of persons not resident in province exemption is \$5,000 instead of \$15,000.	Same as Class A.	No exemption (other than general exemption). Additional rates—bequests not in excess of \$25,000.	No exemption (other than general exemption).
British Columbia.	Aggregate value not in excess of \$1,000.	\$20,000 exemption. Additional rates do not apply under \$50,000.	Same as Class A.	No exemption (other than general exemption). Additional rates do not apply under \$25,000.	No exemption (other than general exemption). Additional rates do not apply under \$25,000.

TABLE 2

DOMINION AND PROVINCIAL SUCCESSION DUTIES ON SELECTED ESTATES  
ENTIRE ESTATE PASSING TO WIDOW (WITHOUT DEPENDENT CHILDREN) RESIDENT IN PROVINCE

Amount of Estate		Prince Edward Island	Nova Scotia	New Brunswick	Quebec	Ontario	Manitoba	Saskat- chewan	Alberta	British Columbia
\$ 10,000	Provincial tax.....\$	250								
	%	2.5								
25,000	Provincial tax.....\$	1,875	550		750			275	600	78
	Dominion tax.....	123	123	123	123	123	123	123	123	123
	Total.....\$	1,998	673	123	873	123	123	398	723	201
	%	8.0	2.7	.5	3.5	.5	.5	1.6	2.9	.8
50,000	Provincial tax.....\$	3,750	2,200	2,500	2,000	1,438	1,725	1,375	1,800	563
	Dominion tax.....	1,470	1,470	1,470	1,470	1,470	1,470	1,470	1,470	1,470
	Total.....\$	5,220	3,670	3,970	3,470	2,908	3,195	2,845	3,270	2,033
	%	10.4	7.3	7.9	6.9	5.8	6.4	5.7	6.5	4.1
100,000	Provincial tax.....\$	10,000	7,700	9,000	8,000	8,625	4,600	5,500	7,800	3,000
	Dominion tax.....	5,880	5,880	5,880	5,880	5,880	5,880	5,880	5,880	5,880
	Total.....\$	15,880	13,580	14,880	13,880	14,505	10,480	11,380	13,680	8,880
	%	15.9	13.6	14.9	13.9	14.5	10.5	11.4	13.7	8.9
500,000	Provincial tax.....\$	50,000	82,500	80,000	77,500	71,875	69,000	71,500	78,000	60,000
	Dominion tax.....	78,480	78,480	78,480	78,480	78,480	78,480	78,480	78,480	78,480
	Total.....\$	128,480	160,980	158,480	155,980	150,355	147,480	149,980	156,480	138,480
	%	25.7	32.2	31.7	31.2	30.1	29.5	30.0	31.3	27.7
2,000,000	Provincial tax.....\$	120,000	594,880	500,000	500,000	494,500	345,000	528,000	456,000	420,750
	Dominion tax.....	451,440	451,440	451,440	451,440	451,440	451,440	451,440	451,440	451,440
	Total.....\$	571,440	1,046,320	951,440	951,440	945,940	796,440	979,440	907,440	872,190
	%	28.6	52.3	47.6	47.6	47.3	39.8	49.0	45.4	43.6



TABLE 3

DOMINION AND PROVINCIAL SUCCESSION DUTIES ON SELECTED ESTATES  
ENTIRE ESTATE PASSING TO CHILD (OVER 18 YEARS OF AGE) RESIDENT IN PROVINCE

Amount of Estate	—	Prince Edward Island	Nova Scotia	New Brunswick	Quebec	Ontario	Manitoba	Saskat- chewan	Alberta	British Columbia
\$ 10,000	Provincial tax.....\$	250	.....	.....	.....	.....	.....	.....	.....	.....
	Dominion tax.....	240	240	240	240	240	240	240	240	240
	Total.....\$	490	240	240	240	240	240	240	240	240
25,000	Provincial tax.....%	4.9	2.4	2.4	2.4	2.4	2.4	2.4	2.4	2.4
	Dominion tax.....\$	1,875	550	.....	750	.....	.....	275	600	78
	Total.....\$	2,600	1,275	725	1,475	725	725	1,000	1,325	803
50,000	Provincial tax.....%	10.4	5.1	2.9	5.9	2.9	2.9	4.0	5.3	3.2
	Dominion tax.....\$	3,750	2,200	2,500	2,000	1,438	1,725	1,375	1,800	563
	Total.....\$	6,450	4,900	5,200	4,700	4,138	4,425	4,075	4,500	3,263
100,000	Provincial tax.....%	12.9	9.8	10.4	9.4	8.3	8.9	8.2	9.0	6.5
	Dominion tax.....\$	10,000	7,700	9,000	8,000	8,625	4,600	5,500	7,800	3,000
	Total.....\$	18,350	16,050	17,350	16,350	16,975	12,950	13,850	16,150	11,350
500,000	Provincial tax.....%	18.4	16.1	17.4	16.4	17.0	13.0	13.9	16.2	11.4
	Dominion tax.....\$	50,000	82,500	80,000	77,500	71,875	69,000	71,500	78,000	60,000
	Total.....\$	86,750	86,750	86,750	86,750	86,750	86,750	86,750	86,750	86,750
2,000,000	Provincial tax.....%	27.4	33.9	33.4	32.9	31.7	31.2	31.7	33.0	29.4
	Dominion tax.....\$	120,000	594,880	500,000	500,000	494,500	345,000	528,000	456,000	420,750
	Total.....\$	476,000	476,000	476,000	476,000	476,000	476,000	476,000	476,000	476,000
	Provincial tax.....\$	596,000	1,070,880	976,000	976,000	970,500	821,000	1,004,000	932,000	896,750
	Dominion tax.....%	29.8	53.5	48.8	48.8	48.5	41.1	50.2	46.6	44.8
	Total.....%	29.8	53.5	48.8	48.8	48.5	41.1	50.2	46.6	44.8

TABLE 4

## DOMINION AND PROVINCIAL SUCCESSION DUTIES ON SELECTED ESTATES

ENTIRE ESTATE PASSING TO NEPHEW RESIDENT IN PROVINCE

Amount of Estate		Prince Edward Island	Nova Scotia	New Brunswick	Quebec	Ontario	Manitoba	Saskat- chewan	Alberta	British Columbia
\$ 2,000	Provincial tax.....\$	100			102		58		24	13
	%	5.0			5.1		2.9		1.2	.6
5,000	Provincial tax.....\$	250			260		144	150	240	188
	%	5.0			5.2		2.9	3.0	4.8	3.8
10,000	Provincial tax.....\$	500	743	370	540		575	550	600	500
	Dominion tax.....\$	290	290	290	290	290	290	290	290	290
	Total.....\$	790	1,033	660	830	290	865	840	890	790
	%	7.9	10.3	6.6	8.3	2.9	8.7	8.4	8.9	7.9
25,000	Provincial tax.....\$	5,000	2,475	2,063	2,125	2,745	1,869	1,788	2,400	1,563
	Dominion tax.....\$	850	850	850	850	850	850	850	850	850
	Total.....\$	5,850	3,325	2,913	2,975	3,595	2,719	2,638	3,250	2,413
	%	23.4	13.3	11.7	11.9	14.4	10.9	10.6	13.0	9.7
50,000	Provincial tax.....\$	10,000	6,325	6,000	6,000	7,140	4,888	4,675	6,000	4,063
	Dominion tax.....\$	3,175	3,175	3,175	3,175	3,175	3,175	3,175	3,175	3,175
	Total.....\$	13,175	9,500	9,175	9,175	10,315	8,063	7,850	9,175	7,238
	%	26.4	19.0	18.4	18.4	20.6	16.1	15.7	18.4	14.5





TABLE 5

## DOMINION AND PROVINCIAL SUCCESSION DUTIES ON SELECTED ESTATES

ENTIRE ESTATE PASSING TO STRANGER TO THE BLOOD RESIDENT IN PROVINCE

Amount of Estate	—	Prince Edward Island	Nova Scotia	New Brunswick	Quebec	Ontario	Manitoba	Saskat- chewan	Alberta	British Columbia
\$ 2,000	Provincial tax.....\$	200	.....	104	244	.....	161	40	48	25
	%	10.0	.....	5.2	12.2	.....	8.1	2.0	2.4	1.3
5,000	Provincial tax.....\$	500	.....	275	625	.....	518	400	480	375
	%	10.0	.....	5.5	12.5	.....	10.4	8.0	9.6	7.5
10,000	Provincial tax.....\$	1,000	1,210	1,100	1,300	1,560	1,208	1,000	1,200	1,000
	Dominion tax.....	340	340	340	340	340	340	340	340	340
	Total.....\$	1,340	1,550	1,440	1,640	1,900	1,548	1,340	1,540	1,340
	%	13.4	15.5	14.4	16.4	19.0	15.5	13.4	15.4	13.4
25,000	Provincial tax.....\$	5,000	3,850	3,688	3,625	4,188	3,450	3,438	4,200	3,125
	Dominion tax.....	975	975	975	975	975	975	975	975	975
	Total.....\$	5,975	4,825	4,663	4,600	5,163	4,425	4,413	5,175	4,100
	%	23.9	19.3	18.7	18.4	20.7	17.7	17.7	20.7	16.4
50,000	Provincial tax.....\$	10,000	8,525	9,250	8,500	9,375	7,475	7,150	9,000	7,188
	Dominion tax.....	3,675	3,675	3,675	3,675	3,675	3,675	3,675	3,675	3,675
	Total.....\$	13,675	12,200	12,925	12,175	13,050	11,150	10,825	12,675	10,863
	%	27.4	24.4	25.9	24.4	26.1	22.3	21.7	25.4	21.7



100,000	Provincial tax.....\$	20,000	20,350	24,500	22,000	21,875	16,100	15,950	20,400	18,125
	Dominion tax.....	10,350	10,350	10,350	10,350	10,350	10,350	10,350	10,350	10,350
	Total.....\$	30,350	30,700	34,850	32,350	32,225	26,450	26,300	30,750	28,475
	%	30.4	30.7	34.9	32.4	32.2	26.5	26.3	30.8	28.5
500,000	Provincial tax.....\$	100,000	145,750	162,500	141,250	171,875	126,500	123,750	150,000	137,500
	Dominion tax.....	96,750	96,750	96,750	96,750	96,750	96,750	96,750	96,750	96,750
	Total.....\$	196,750	242,500	259,250	238,000	268,625	223,250	220,500	246,750	234,250
	%	39.4	48.5	51.9	47.6	53.7	44.7	44.1	49.4	46.9
2,000,000	Provincial tax.....\$	230,000	803,880	900,000	700,000	875,000	575,000	704,000	864,000	675,000
	Dominion tax.....	498,000	498,000	498,000	498,000	498,000	498,000	498,000	498,000	498,000
	Total.....\$	728,000	1,301,880	1,398,000	1,198,000	1,373,000	1,073,000	1,202,000	1,362,000	1,173,000
	%	36.4	65.1	69.9	59.9	68.7	53.7	60.1	68.1	58.7

SELECTED COMPARISONS OF CANADIAN AND  
FOREIGN SUCCESSION DUTIES

TABLE 6

ESTATE ALL PASSING TO WIDOW WITHOUT DEPENDENT CHILDREN

Amount Of Estate		DOMINION OF CANADA			COMMON- WEALTH OF AUSTRALIA	UNITED KINGDOM	UNITED STATES OF AMERICA
		Quebec	Ontario	British Columbia	New South Wales		New York
\$ 2,000	Federal tax.....\$					20	
	%					1.0	
5,000	Provincial or State tax.....\$				83		
	Federal tax.....					150	
	Total.....\$				83	150	
	%				1.7	3.0	
10,000	Provincial or State tax.....\$				230		
	Federal tax.....				92	300	
	Total.....\$				322	300	
	%				3.2	3.0	
25,000	Provincial or State tax.....\$	750		78	1,250		50
	Federal tax.....	123	123	123	553	1,000	
	Total.....\$	873	123	201	1,803	1,000	50
	%	3.5	.5	.8	7.2	4.0	.2
50,000	Provincial or State tax.....\$	2,000	1,438	563	3,375		300
	Federal tax.....	1,470	1,470	1,470	1,860	3,000	
	Total.....\$	3,470	2,908	2,033	5,235	3,000	300
	%	6.9	5.8	4.1	10.5	6.0	.6
100,000	Provincial or State tax.....\$	8,000	8,625	3,000	10,250		800
	Federal tax.....	5,880	5,880	5,880	6,390	11,692	4,800
	Total.....\$	13,880	14,505	8,880	16,640	11,692	5,600
	%	13.9	14.5	8.9	16.6	11.7	5.6
500,000	Provincial or State tax.....\$	77,500	71,875	60,000	135,000		12,700
	Federal tax.....	78,480	78,480	78,480	83,366	133,700	*116,500
	Total.....\$	155,980	150,355	138,480	218,366	133,700	129,200
	%	31.2	30.1	27.7	43.7	26.7	25.8
2,000,000	Provincial or State tax.....\$	500,000	494,500	420,750	540,000		123,700
	Federal tax.....	451,440	451,440	451,440	401,280	843,680	*626,600
	Total.....\$	951,440	945,940	872,190	941,280	843,680	750,300
	%	47.6	47.3	43.6	47.1	42.2	37.5

\* After deducting federal allowance for State of New York succession duties paid.



SELECTED COMPARISONS OF CANADIAN AND  
FOREIGN SUCCESSION DUTIES

TABLE 7

ESTATE ALL PASSING TO NON-DEPENDENT CHILD

Amount Of Estate	—	DOMINION OF CANADA			COMMON- WEALTH OF AUSTRALIA	UNITED KINGDOM	UNITED STATES OF AMERICA
		Quebec	Ontario	British Columbia	New South Wales		New York
\$ 2,000	Provincial or State tax.....\$				60		
	Federal tax.....					20	
	Total.....\$				60	20	
	%				3.0	2.0	
5,000	Provincial or State tax.....\$				167		
	Federal tax.....					150	
	Total.....\$				167	150	
	%				3.3	3.0	
10,000	Provincial or State tax.....\$				367		50
	Federal tax.....	240	240	240	87	300	
	Total.....\$	240	240	240	454	300	50
	%	2.4	2.4	2.4	4.5	3.0	.5
25,000	Provincial or State tax.....\$	750		78	1,250		200
	Federal tax.....	725	725	725	553	1,000	
	Total.....\$	1,475	725	803	1,803	1,000	200
	%	5.9	2.9	3.2	7.2	4.0	.8
50,000	Provincial or State tax.....\$	2,000	1,438	563	3,375		450
	Federal tax.....	2,700	2,700	2,700	1,860	3,000	
	Total.....\$	4,700	4,138	3,263	5,235	3,000	450
	%	9.4	8.3	6.5	10.5	6.0	.9
100,000	Provincial or State tax.....\$	8,000	8,625	3,000	10,250		950
	Federal tax.....	8,350	8,350	8,350	6,390	11,692	4,800
	Total.....\$	16,350	16,975	11,350	16,640	11,692	5,750
	%	16.4	17.0	11.4	16.6	11.7	5.8
500,000	Provincial or State tax.....\$	77,500	71,875	60,000	135,000		13,300
	Federal tax.....	86,750	86,750	86,750	83,366	133,700	*116,500
	Total.....\$	164,250	158,625	146,750	218,366	133,700	129,800
	%	32.9	31.7	29.4	43.7	26.7	26.0
2,000,000	Provincial or State tax.....\$	500,000	494,500	420,750	540,000		125,050
	Federal tax.....	476,000	476,000	476,000	401,280	843,680	*626,600
	Total.....\$	976,000	970,500	896,750	941,280	843,680	751,650
	%	48.8	48.5	44.8	47.1	42.2	37.6

\* After deducting federal allowance for State of New York succession duties paid.

SELECTED COMPARISONS OF CANADIAN AND  
FOREIGN SUCCESSION DUTIES

TABLE 8

ESTATE ALL PASSING TO NEPHEW OF DECEDENT

Amount Of Estate		DOMINION OF CANADA			COMMON- WEALTH OF AUSTRALIA	UNITED KINGDOM	UNITED STATES OF AMERICA
		Quebec	Ontario	British Columbia	New South Wales		New York
\$ 2,000	Provincial or State tax.....\$	102		13	100		
	Federal tax.....					20	
	Total.....\$	102		13	100	20	
	%	5.1		.6	5.0	1.0	
5,000	Provincial or State tax.....\$	260		188	267		50
	Federal tax.....				40	393	
	Total.....\$	260		188	307	393	50
	%	5.2		3.8	6.1	7.9	1.0
10,000	Provincial or State tax.....\$	540		500	567		100
	Federal tax.....	290	290	290	196	785	
	Total.....\$	830	290	790	763	785	100
	%	8.3	2.9	7.9	7.6	7.9	1.0
25,000	Provincial or State tax.....\$	2,125	2,745	1,563	1,750		250
	Federal tax.....	850	850	850	653	2,200	
	Total.....\$	2,975	3,595	2,413	2,403	2,200	250
	%	11.9	14.4	9.7	9.6	8.8	1.0
50,000	Provincial or State tax.....\$	6,000	7,140	4,063	4,375		500
	Federal tax.....	3,175	3,175	3,175	1,780	5,350	
	Total.....\$	9,175	10,315	7,238	6,155	5,350	500
	%	18.4	20.6	14.5	12.3	10.7	1.0
100,000	Provincial or State tax.....\$	16,000	18,240	11,875	12,250		1,000
	Federal tax.....	9,350	9,350	9,350	6,143	15,260	4,800
	Total.....\$	25,350	27,590	21,225	18,393	15,260	5,800
	%	25.4	27.6	21.2	18.4	15.3	5.8
500,000	Provincial or State tax.....\$	108,333	123,000	106,250	145,000		13,500
	Federal tax.....	91,750	91,750	91,750	79,095	148,500	*116,500
	Total.....\$	200,083	214,750	198,000	224,095	148,500	130,000
	%	40.0	43.0	39.6	44.8	29.7	26.0
2,000,000	Provincial or State tax.....\$	600,000	672,000	550,000	580,000		125,500
	Federal tax.....	496,000	496,000	496,000	389,435	890,400	*626,600
	Total.....\$	1,096,000	1,168,000	1,046,000	969,435	890,400	752,100
	%	54.8	58.4	52.3	48.5	44.5	37.6

\* After deducting federal allowance for State of New York succession duties paid.



## SELECTED COMPARISONS OF CANADIAN AND FOREIGN SUCCESSION DUTIES

TABLE 9

ESTATE ALL PASSING TO STRANGER TO THE BLOOD

Amount Of Estate		DOMINION OF CANADA			COMMON- WEALTH OF AUSTRALIA	UNITED KINGDOM	UNITED STATES OF AMERICA
		Quebec	Ontario	British Columbia	New South Wales		New York
\$ 2,000	Provincial or State tax.....\$	244		25	160		
	Federal tax.....					20	
	Total.....\$	244		25	160	20	
	%	12.2		1.3	8.0	1.0	
5,000	Provincial or State tax.....\$	625		375	416		50
	Federal tax.....				36	635	
	Total.....\$	625		375	452	635	50
	%	12.5		7.5	9.0	12.7	1.0
10,000	Provincial or State tax.....\$	1,300	1,560	1,000	867		100
	Federal tax.....	340	340	340	186	1,270	
	Total.....\$	1,640	1,900	1,340	1,053	1,270	100
	%	16.4	19.0	13.4	10.5	12.7	1.0
25,000	Provincial or State tax.....\$	3,625	4,188	3,125	2,500		250
	Federal tax.....	975	975	975	628	3,400	
	Total.....\$	4,600	5,163	4,100	3,128	3,400	250
	%	18.4	20.7	16.4	12.5	13.6	1.0
50,000	Provincial or State tax.....\$	8,500	9,375	7,188	5,875		500
	Federal tax.....	3,675	3,675	3,675	1,670	7,700	
	Total.....\$	12,175	13,050	10,863	7,545	7,700	500
	%	24.4	26.1	21.7	15.1	15.4	1.0
100,000	Provincial or State tax.....\$	22,000	21,875	18,125	15,250		1,000
	Federal tax.....	10,350	10,350	10,350	5,795	19,720	4,800
	Total.....\$	32,350	32,225	28,475	21,045	19,720	5,800
	%	32.4	32.2	28.5	21.0	19.7	5.8
500,000	Provincial or State tax.....\$	141,250	171,875	137,500	160,000		13,500
	Federal tax.....	96,750	96,750	96,750	72,830	167,000	*116,500
	Total.....\$	238,000	268,625	234,250	232,830	167,000	130,000
	%	47.6	53.7	46.9	46.6	33.4	26.0
2,000,000	Provincial or State tax.....\$	700,000	875,000	675,000	640,000		125,500
	Federal tax.....	498,000	498,000	498,000	371,825	948,800	*626,600
	Total.....\$	1,198,000	1,373,000	1,173,000	1,011,825	948,800	752,100
	%	59.9	68.7	58.7	50.6	47.4	37.6

\* After deducting federal allowance for State of New York succession duties paid.

SUCCESSION DUTY REVENUE  
DOMINION AND PROVINCIAL FOR SELECTED YEARS  
(Thousands of Dollars)

	1913	1921	1929	1933	1937	1939	1941	1943
	1	1	1	2	2	2	2	2
	\$	\$	\$	\$	\$	\$	\$	\$
Prince Edward Island.....	6	11	29	31	45	75	43	36
Nova Scotia.....	53	159	235	263	606	557	410	662
New Brunswick.....	98	151	281	259	398	177	384	600
Quebec.....	1,605	3,005	5,294	2,755	11,992	12,506	12,202	6,625
Ontario.....	1,146	4,822	6,610	8,081	20,214	11,500	11,677	13,320
Manitoba.....	268	457	1,034	424	402	875	735	341
Saskatchewan.....	74	309	463	147	245	362	337	481
Alberta.....	67	177	897	257	1,326	375	673	687
British Columbia <sup>3</sup> .....	294	633	1,006	528	1,461	1,423	916	1,639
Sub-total, all provinces.....	3,611	9,724	15,849	12,745	36,689	27,850	27,377	24,391
Dominion of Canada.....							6,957	15,020
Total.....	3,611	9,724	15,849	12,745	36,689	27,850	34,334	39,411

<sup>1</sup> As shown in Appendix "I", Statement "28", Royal Commission on Dominion Provincial Relations, Public Accounts Inquiry, (dated July 1, 1939)

<sup>2</sup> As shown in Table 9, Page 2, Comparative Statistics of Public Finance, Dominion-Provincial Conference, 1945.

<sup>3</sup> Includes probate duties.



TABLE 11

## SUCCESSION DUTY REVENUE

COMPARISONS OF PROVINCIAL SUCCESSION DUTY REVENUE WITH TOTAL PROVINCIAL TAX REVENUE  
AND TOTAL PROVINCIAL REVENUE FOR THE YEARS 1913, 1921 AND 1939.

(Thousands of Dollars)

	Year	Succession duty revenue 1	Total provincial tax revenue 1	Percentage of succession duty revenue to tax revenue	Total provincial revenue 1	Percentage of succession duty revenue to total revenue
		\$	\$	%	\$	%
Prince Edward Island.....	1913	6	105	5.7	536	1.1
	1921	11	305	3.6	796	1.4
	1939	75	761	9.9	1,709	4.4
Nova Scotia.....	1913	53	137	38.7	1,678	3.2
	1921	159	1,320	12.0	3,344	4.8
	1939	557	4,570	12.2	11,737	4.7
New Brunswick.....	1913	98	158	62.0	1,407	7.0
	1921	151	610	24.9	2,729	5.5
	1939	177	3,160	5.6	8,198	2.2
Quebec.....	1913	1,605	2,602	61.7	8,677	18.5
	1921	3,005	5,718	52.5	20,952	14.3
	1939	12,506	32,164	38.9	59,813	20.9
Ontario.....	1913	1,146	2,083	55.0	9,369	12.2
	1921	4,822	9,824	49.1	21,907	22.0
	1939	11,500	55,109	20.9	87,524	13.1
Manitoba.....	1913	268	645	41.6	4,094	6.5
	1921	457	3,751	12.2	7,378	6.2
	1939	875	8,306	10.5	16,596	5.3
Saskatchewan.....	1913	74	904	8.2	6,064	1.2
	1921	309	4,008	7.7	9,460	3.3
	1939	362	10,088	3.6	20,534	1.8
Alberta.....	1913	67	324	20.7	4,435	1.5
	1921	177	2,824	6.3	7,973	2.2
	1939	375	8,448	4.4	20,312	1.8
British Columbia.....	1913	294	2,362	12.4	10,154	2.9
	1921	633	6,962	9.1	16,594	3.8
	1939	1,423	16,246	8.8	32,449	4.4

<sup>1</sup> Source of revenue figures:  
1913 and 1921—Appendix "I", Statement "28", Royal Commission on Dominion Provincial Relations, Public Accounts Inquiry (dated July 1, 1939).  
1939—Statements of Provincial Revenue, Tables 16A, 19A, 22A, 25A, 28A, 31A, 34A, 37A, 40A, Comparative Statistics of Public Finance, Dominion-Provincial Conference, 1945.

TABLE 12

DOMINION SUCCESSION DUTY ASSESSMENTS OF  
DUTIABLE ESTATES <sup>1</sup>

FISCAL YEAR ENDED MARCH 31, 1944

(Thousands of Dollars)

Size of Estate			Amount Dutiable	Amount Non-dutiable	Total Value of Estates	Total Duties Assessed
\$	5 —	10	21,897	4,308	26,205	453
	10 —	25	39,302	11,240	50,542	968
	25 —	35	13,428	6,224	19,652	467
	35 —	50	15,011	5,505	20,516	648
Sub-total . . . .			89,638	27,277	116,915	2,536
50 — 75			16,675	3,701	20,376	842
75 — 100			10,010	1,937	11,947	578
100 — 125			9,086	1,181	10,267	644
125 — 150			5,396	618	6,014	404
150 — 200			7,996	802	8,798	678
Sub-total . . . .			49,163	8,239	57,402	3,146
200 — 300			7,875	523	8,398	770
300 — 400			3,817	443	4,260	424
400 — 500			4,006	513	4,519	461
500 — 750			3,530	106	3,636	465
750 — 1,000			6,989	151	7,140	977
Sub-total . . . .			26,217	1,736	27,953	3,097
1,000 — 1,500			11,353	574	11,927	1,858
1,500 — 2,000			1,528	10	1,538	236
2,000 — 3,000			4,781	229	5,010	924
3,000 — 5,000			4,287	61	4,348	922
Sub-total . . . .			21,949	874	22,823	3,940
Total . . . . .			\$ 186,967	38,126	225,093	12,719

<sup>1</sup> Statistics of succession duty assessments of dutiable estates' for the year ending March 31, 1944, prepared by the statistical section, Taxation Division, Department of National Revenue.



## PART III

## EXTRACTS FROM LEGISLATION, AGREEMENTS, ETC.

I. EXTRACTS FROM CONVENTION BETWEEN  
CANADA AND THE UNITED STATES  
FOR THE AVOIDANCE OF DOUBLE  
INHERITANCE TAXATION<sup>1</sup>

## ARTICLE I

1. The taxes referred to in this Convention are:
  - (a) for the United States of America: the Federal estate taxes;
  - (b) for Canada: the taxes imposed under the Dominion Succession Duty Act.

\* \* \*

## ARTICLE II

1. Real property situated in Canada shall be exempt from the application of the taxes imposed by the United States of America.

2. Real property situated in the United States of America shall be exempt from the application of the taxes imposed by Canada.

3. The question whether rights relating to or secured by real property are to be considered as real property for the purposes of this Convention shall be determined in accordance with the laws of the contracting State imposing the tax.

## ARTICLE III

1. Shares in a corporation organized in or under the laws of the United States of America, or any of the states or territories of the United States of America, or of the District of Columbia, shall be deemed to be property situated within the United States of America.

2. Shares in a corporation organized in or under the laws of Canada, or of any of the provinces or territories of Canada, shall be deemed to be property situated in Canada.

\* \* \*

## ARTICLE IV

1. The situs of property shall be determined in accordance with the laws of the contracting State imposing the tax, except as otherwise provided in this Convention.

2. Allowances for debts shall be determined in accordance with the laws of the contracting State imposing the tax.

3. Domicile shall be determined in accordance with the laws of the contracting State imposing the tax.

## ARTICLE V

1. In the case of a decedent who at the time of his death was a citizen of, or domiciled in, the United States of America, the United States of America may include in the gross estate any property (other than real property) situated in Canada as though this Convention had not come into effect.

2. In the case of a decedent (other than a citizen of the United States of America) who at the time of his death was domiciled in Canada, the United States of America shall, in imposing the taxes to which this Convention relates:

- (a) take into account only property situated in the United States of America; and
- (b) allow as an exemption an amount which bears the same ratio to the personal exemption allowed in the case of a decedent who was at the time of his death a citizen of, or domiciled in, the United States of America, as the value of the property of such decedent situated in the United States of America bears to the value of the property included in the entire gross estate of the decedent.

3. In the case of a decedent who at the time of his death was domiciled in Canada, Canada may include in the gross estate any property (other than real property) situated in the United States of America as though this Convention had not come into effect.

4. In the case of a decedent who at the time of his death was domiciled in the United States of America, Canada shall, in imposing the taxes to which this Convention relates:

- (a) take into account only property situated in Canada; and
- (b) allow as an exemption an amount which bears the same ratio to the personal exemption allowed in the case of a decedent who was at the time of his death domiciled in Canada as the value of the property of such decedent situated in Canada bears to the entire value of the property, wherever situated.

## ARTICLE VI

1. In the case of a decedent who at the time of his death was a citizen of or domiciled in the United States of America, the United States of America shall impose the estate taxes to which this Convention relates upon the following conditions:

- (a) In respect of property situated in Canada which, for the purpose of estate taxes, is included in the gross estate, less such property as is specifically deducted therefrom (either because of transfer for public, charitable, educational, religious or similar uses or because the property has been previously taxed under provisions of law relating to property previously taxed) there shall be allowed against the estate taxes a credit for Canadian succession taxes in respect of the property situated in Canada, the situs of such property being determined in accordance with the laws of Canada, subject to the provisions of this Convention.
- (b) The portion of the Canadian succession taxes to be allowed as a credit against United States estate taxes shall be an amount which bears

<sup>1</sup> Commerce Clearing House, Canadian Tax Service, pp. 546-548.

the same ratio to the total Canadian succession taxes as the value of the property situated in Canada and with respect to which estate taxes are imposed by the United States of America bears to the total value of the property with respect to which succession taxes are imposed by Canada.

- (c) The credit in any such case shall not exceed an amount which bears the same ratio to such estate taxes, computed without the credit provided for herein, as the value of the property situated in Canada and not excluded or deducted from the gross estate as provided in (a) bears to the value of the entire gross estate.
- (d) The values referred to in (c) are the values determined by the United States of America for the purpose of estate taxes.
- (e) The credit provided for herein shall apply after the application of section 813 (b) of the Internal Revenue Code, as amended by the Revenue Act of 1942.

2. In the case of a decedent who at the time of his death was domiciled in Canada, Canada shall impose the succession taxes to which this Convention relates upon the following conditions:

- (a) In respect of property situated in the United States of America which, for the purpose of succession taxes, is included in the gross estate, less such property as is specifically deducted therefrom (because of transfer for charitable, educational, religious or similar uses), there shall be allowed against the succession taxes a credit for United States estate taxes in respect of the property situated in the United States of America, the situs of such property being determined in accordance with the laws of the United States of America, subject to the provisions of this Convention.
- (b) The portion of the United States estate taxes to be allowed as a credit against Canadian succession taxes shall be an amount which bears the same ratio to the total United States estate taxes as the value of the property situated in the United States of America and with respect to which succession taxes are imposed by Canada bears to the total value of the property with respect to which estate taxes are imposed by the United States of America.
- (c) The credit in any such case shall not exceed an amount which bears the same ratio to such succession taxes, computed without the credit provided for herein, as the value of the property situated in the United States of America and not excluded or deducted from the gross estate as provided in (a) bears to the entire value of the property, wherever situated.
- (d) The values referred to in (c) are the values determined by Canada for the purpose of succession taxes.

3. (a) The credit referred to in this Article may be allowed by the United States of America if claim therefor is filed within the periods provided in section 813 (b) of the Internal Revenue Code, as amended.

(b) The credit referred to in this Article may be allowed by Canada if claim therefor is filed

within the period provided by subsection 4 of section 35 of the Dominion Succession Duty Act relating to refund of overpayment.

- (c) A refund based on the credit may be made if a claim therefor is filed within the respective periods above provided.
- (d) Any refund based on the provisions of this Article or any other provisions of this Convention shall be made without interest.

\* \* \* \*

#### ARTICLE XI

If any fiduciary or beneficiary can show that double taxation has resulted or may result in respect of the taxes to which this Convention relates, such fiduciary or beneficiary shall be entitled to lodge a claim or protest with the State of citizenship or domicile of such fiduciary or beneficiary, or if a corporation or other entity, with the State in which created or organized. If the claim or protest should be deemed worthy of consideration, the competent authority of such State may consult with the competent authority of the other State to determine whether the alleged double taxation exists or may occur and if so whether it may be avoided in accordance with the terms of this Convention.

\* \* \* \*

#### ARTICLE XIV

\* \* \* \*

2. This Convention shall be deemed to have come into effect on the 14th day of June, 1941. It shall continue in effect for a period of five years from that date and indefinitely after that period, but may be terminated by either of the contracting States at the end of the five year period or at any time thereafter provided that at least six months prior notice of termination has been given.

### 2. ONTARIO-QUEBEC RECIPROCAL AGREEMENT

*Copy of an Order in Council approved by the Honourable, the Lieutenant-Governor, dated the 17th day of January, A.D. 1945.*

"Whereas an agreement has been reached between the Treasurer of the Province of Ontario and the Treasurer of the Province of Quebec for the purpose of avoiding double taxation with respect to succession duty in the two Provinces in accordance with the settled minutes which are attached hereto as Schedule A."

"The Provincial Treasurer, therefore, recommends pursuant to the provisions of the Succession Duty Act, 1939, Section 7 that where duty is paid to the Province of Quebec on property in respect to which there is a transmission within the meaning of The Succession Duty Act, 1939, an allowance shall be made for the duty so paid but not exceeding the duty levied in respect of such transmission where the deceased died on or after the 1st day of February, 1945, upon the passing of an order by the Lieutenant-Governor in Council of the Province of Quebec, making a similar allowance with respect to Ontario."

"The Provincial Treasurer further recommends that the agreement which is attached hereto and marked



Schedule A be approved to apply to cases where the deceased died on or after the 1st day of February, 1945 upon the passing of an order by the Lieutenant-Governor in Council of the Province of Quebec approving of it."

"The Committee of Council concur in the recommendation of the Honourable the Provincial Treasurer, and advise that the same be acted on."

Certified

Clerk, Executive Council.

### 3. ONTARIO-NOVA SCOTIA RECIPROCITY

*3. Copy of an Order-in-Council approved by The Honourable the Lieutenant-Governor, dated the 14th day of February, A.D. 1945.*

"Whereas the Province of Nova Scotia makes an allowance in the case of a person who dies domiciled

in Nova Scotia, for any duty paid to the Province of Ontario on property situate therein, in respect of which duty is also payable to Nova Scotia."

"The Provincial Treasurer, therefore, recommends pursuant to the provisions of The Succession Duty Act, 1939, Section 7, that where duty is paid to the Province of Nova Scotia on property in respect of which there is a transmission within the meaning of The Succession Duty Act, 1939, an allowance shall be made for the duty so paid, but not exceeding the duty levied in respect of such transmission, where the deceased dies on or after the date of the approval of this order."

"The Committee of Council concur in the recommendation of the Honourable the Provincial Treasurer, and advise that the same be acted on."

Certified

Clerk, Executive Council.













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